A

Peaceable Reſolution OF CONSCIENCE

Touching our preſent Impoſitions.

WHEREIN

LOYALTY & OBEDIENCE

ARE PROPOSED,

And ſettled upon their true Foundation in SCRIPTURE, REASON, and the Conſtitution of this KINGDOM, againſt all *Reſiſtance* of the preſent *Powers*: And for *Complyance* with the *Laws*, ſo far as may be in order to *Union*.

With a Draught, *or* Specimen *of a* BILL *for* ACCOMMODATION.

By mr. Humphrey, ſometime (if not now) a Non-conformiſt Minister.

Ipſe autem Rex non debet eſſe ſub homine, ſed ſub Deo, & Lege, quia Lex facit Regem. Attribuat igitur Rex Legi, quod Lex attribuit ei, videlicet dominationem & poteſtatem. Non enim eſt Rex ubi dominatur voluntas, non Lex. Bract. l.1.c.8.

LONDON, Printed for *Robert Clavel* at the *Peacock* in St. *Pauls* Church Yard, *Thomas Simmons* at the *Princes Arms*, and *Jacob Sampſon* next the *Wonder Tavern* in *Ludgate-ſtreet*, 1680.

BIBLIOTHECA BODLEIANA

THE Epiſtle to the READER

READER,

THat thoſe who ſoberly fear God throughout the Nation may know their preſent intereſt in *England*, whatſoever hath been the effects of ſome unadviſed minds but lately among the *Scots*, I take this for a fit ſeaſon to ſend abroad theſe *Sheets*, while moſt people ſeem to me to become more feavouriſh in their Allegiance to the *Higher Powers*, then is allowed to them in the thirteenth to the *Romans*, and this Diſſertation upon it. They were in the ſubſtance (excepting the Concluſion) prepared many years ago, and ſeen by many, ſuch as Biſhop *Wilkins*, Judge *Hales*, and other the like judicious perſons; and there has been ſeveral Papers ſince theſe lay by, publiſhed and preſented to the late long Par-

liament for removal of theſe injunctions, unto which (ſeeing ſuch attempts as yet have prevailed nothing,) this Diſcourſe comes out with the beſt aſſiſtance it is able, for ſubmiſſion. That is, ſo far it muſt be ſuppoſed only, as every man can with a ſafe Conſcience. Thoſe kind of *Papers* therefore, and this *Book* are indeed no enemies. The *Impoſition* of theſe Laws is *one* thing, and the *Submiſſion* to them is *another*. He that writes *againſt* them, and he that writes *for* them upon theſe two accounts, does but carry on the *ſame* Work. The one may propoſe our *Difficulties* as a reaſon for a *Relaxation*: the other may bring the *Solution* when that cannot be *obtained*. If any Parliament be got to *releaſe* the *Burden*, or the *Concerned* be ſatisfied in Conſcience to *bear* it, it comes to one. I need not ſay which *I* think beſt, or deſire moſt, but the deſign is Peace and Moderation in both.

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The Candid will see this, some others will not see it, but accuse the Design of Contradiction. To this purpose I would have it observed, that in a few Sheets Entituled, *The Peaceable Design*, set out by some Ministers of *London*, in the year 1675, when they come to offer their Arguments against the *Oxford* Oath, they have these Words. *Which we desire may be taken with Candour in respect only to our design, that is, as Argumentative for the removal of these injunctions, not as peremptorily Definitive of our own judgments, and much less of others above our Sphere, in the cases concern'd in them.* These are Words put in *de industria* to anticipate such an accusation.

Nor is it the fruit of a generous Christian mind, to regard a mans self only, what *I can do*, how far *I can go*, or what is fit for *me* (or *one* party) without consideration of *others*. There

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are many young men in whoſe hearts God I hope hath ſowen his Grace, that are training up at the Univerſity, and in other places, whoſe Parents expect they ſhould enter the Publick Vineyard, and while their Conſciences are limber and not grown ſtiff as ours are, they have need of ſuch a Book as this is, and ſuch a Confeſſour to them as *I* am. I have writ other Papers for my *ſelf*: I have writ this Book for *them*. That ſuch may have the more *Faith* in what they act, and we the more *Charity* in our thoughts of them, if they do otherwiſe then we do. For my part, *I* am a debtor to thoſe that *fear God, and Conform not*: and I am a debtor to thoſe that *fear God, and do Conform*. Beſides, if by this means *I* can come but to open our ſore to the Publick cure, or get that caſe to be pondered, which I cannot by other means, I think my

greateſt

greateſt purpoſe is not loſt; I will conclude therefore with theſe two texts. One is, *Do I perſwade* (that is give way to, or obey) *Men or God? Or do I ſeek to pleaſe Man? For if I yet pleaſed Man, I ſhould not be the Servant of Chriſt.* The other is, *I pleaſe all men in all things, not ſeeking my own profit, but the profit of many, that they may be ſaved.* When theſe *Texts* fall out, then ſhall theſe *Things* Contradict one another.

ERRATA.

Pag. 2. l. 21. for *quas tenus*, read *quatenus*. p. 11. l. 3. for *it ſelf* r. *it ſelf*. p. 13. l. 21. for *ſo*, r. *for* p. 28. l. 4. for *defined*, r. *defined*. p. 29. l. 1. for *I*, r. *If*. l. 10. r. *from the higheſt*. p. 37. l. 8. for *Supremacy*, r. *Supreme*. p. 73. l. 15. for *eus*, r. *eos*. p. 77. l. 9. r. *in the Power*. p. 79. l. 29. for *to*, r. *too*. p. 112. l. 17. for *be*, r. *the*. p. 115. l. *ult*. r. *ſays yet a greater Author*. p. 127. l. 20. r. *to the Orthodox*. p. 136. l. 18. r. *that Liberty which*. p. 140. l. 18. for *eay*, r. *lay*. p. 128. l. 17. for *me then*, r. *them*. Note; that *from* p. 160. *to* p. 169. *are falſe numbred, and* p. 168. *as it ſhould be*, l. 4. *for* finito, r. finito.

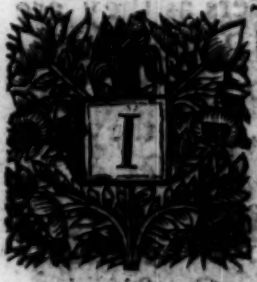
P. 125. l. 22. *Hæc Verba Deſiderantur.*

This is the Rule, and the Explication, which I humbly lay down for us to go by, in our obedience to Humane Impoſitions.

A Peaceable Resolution OF CONSCIENCE Touching our Present Impositions, &c.

CHAP. I.

The Original of Civil Power, and our Subjection to it, in this Nation, established.



IT is the usual infirmitie of men of the greatest parts, in their undertaking the satisfaction of Conscience in any matter of practice, which is of moment, to offer so many Reasons and Considerations upon the Subject, that their strength being divided into many things, there are few of their Intelligent Readers but see the insufficiency of what they urge, and thereby judging of the rest, they

do not know where to find the bottom which they are to set their Foot upon, and so are left unresolved in the case.

There is one Famous Text therefore, I shall lay down, for the resolution of the Judgment and Conscience, in that grand matter which in this discourse is undertaken. Πᾶσα ψυχὴ ἐξουσίαις ὑπερεχούσαις ὑποτασσέσθω. Οὐ γάρ ἐστιν ἐξουσία εἰ μὴ ἀπὸ Θεοῦ αἱ δὲ οὖσαι ἐξουσίαι ὑπὸ τοῦ Θεοῦ τεταγμέναι εἰσίν. Ὥστε ὁ ἀντιτασσόμενος τῇ ἐξουσίᾳ, τῇ τοῦ Θεοῦ διαταγῇ ἀνθέστηκεν. Οἱ δὲ ἀνθεστηκότες ἑαυτοῖς κρίμα λήψονται. *Let every Soul be subject to the higher Powers, for there is no Power but of God. The powers that be, are ordained of God. Whosoever therefore resisteth the Power, resisteth the Ordinance of God, and they that resist shall receive to themselves Damnation.*

From this piece of holy Writ, I will lay down my Stone, and Build upon it, That the Powers that are, that is the present Powers as they are (I suppose them ἐξουσίαι, Rightful Powers) whatsoever they be, *quas tenus* they be, must be submitted unto, upon this ground, that they are the Ordinance of God, who disposes of all Powers that are, to be as they are.

We must distinguish here upon necessity. There is the *Power* it self, and the Constitution, form, or the *Qualification* (as Dr. *Ferne* expresses it) of that Power as it is specificated in the kind, individuated in the Persons, and cloathed with

with Customs and Laws in any Community or Nation. Again there is διαταγὴ, the ordinance or *ordination of Gods Precept*, instituting or commanding such or such a thing in the law of Nature, or his Sacred Word: and the *ordination of his Providence*, which Ruleth, Ordereth, and Disposeth the Affairs of this World, and more especially the Kingdoms and Dominions thereof according to his Council and Pleasure.

This thing *Power* it self; that there should be an Authority in some person or persons, to Rule and Govern for the ends of Society and the common Good (without which, *neither Family, nor City, nor Kingdom, nor the World it self* (as *Cicero, de legibus*, has it) *could subsist*) and consequently that others should be in Subjection to that Power, is the ordination of Gods Precept, the institution of God in the Law of Nature, and so of Moral and Everlasting obligation, the very ground and reason it self of the fifth Commandment. The *Constitution* or *Form* of Government, as this power is qualified by the Laws or Customs, that are established in any place or people, according to their interests and concernments, we must know as being that which cannot be gain-said, is, and must be of Humane devise altogether, arising I say from mans invention, consultation, institution; and so is called a *Humane creature* by St. *Peter*, ἀνθρωπίνη κτίσις,

κλισις, *the Ordinance of man*, which is doubtless the only impartial Interpretation of that expression. Let a Government be Monarchical, Aristocratical, Democratical, there is not any (the Commonwealth of the *Jews* only excepted) of God in this sense, but are left by him indifferent to the Nations.

As for that dispute in the way which of these is best, it does not concern us who are to be subject to that *which is*. Where the publick interest does become each mans single Interest, and all preferment lies in accomodating himself unto that, there methinks the end of Society is *Originally* like most to be attained. I will not speak fallly for favour. There is now and then a line about the *Venetian* State in *Bocaline*, does touch me more to the quick, than the arguments for his *Pope* in *Bellarmine*. Nevertheless in regard that differences will arise among men; and from differences dissention and division among equalls; and from division tumults, wars and ruine: for a blessed mouth hath said it, that *A Nation divided cannot stand*, it is very likely in my Judgment, that *Monarchy* came into the World as *Episcopacy* into the Church, according to St. *Hierom*, that is *Remedij loco*, as the best expedient against this inconvenience, and upon that reason is preferred.

Now the great question will be, how the

Powers

Powers that are, which comprehend the constitution of Government, with the person or persons who are Governours, as well as the power it self under the same, are to be said the *Ordinance of God*, which is made the ground of the precept, *Be Subject*.

I will take here some line in speaking to this. *Potestas est jus imperandi*, says *Arnisæus*. Take the word *imperandi* at large. *A Right to Order, Dispose or Govern*, say other Politicks. There is *Potestas* I count, that goes to the making a Commonwealth, as to the *Ruling* it. A right now, in or to a thing, a man cannot have, but by the grant of him that hath the propriety. The great and chief proprietor of all things is God, by creation. Upon this his Dominion is Founded. Mans Dominion arises from Gods. Dominion is either *private*, which is a right to have or use a thing: or *publick* which is to rule. Publick Dominion then or Government, which is a right to order or rule a Society of men (the principal of Gods earthly Creatures) must be derived from a grant of his, in the Original of it. This grant is an Act of his will, passed in the Law of Nature, or his Word; and this Act we call the Institution. The institution of Magistracy then, is Gods general Rule or Command, Grant, or Charter; which does require and authorize all Communities in the World to agree

and come together into Government, leaving them to their liberty for the framing their own constitution (consisting of the *kind* of Government and individuation of it in the *persons*) as it shall conduce most to the common Good. The providence of God now comes in wholly, and disposes, orders, and determines of the minds and resolutions of the Community herein, unto this and that person as it pleases him, who is the *Alpha* and *Omega* of all his creatures, and all their actions.

By this we see how Gods institution, and Gods providence do go both to the Powers that be *Ordained of God*: Yet must this ordination of his, in reference to the objects intended, have its distinct explication to resolve what is proposed. The *Powers that are* do necessarily comprehend these two things, the *Power it self* which denominates the Recipient, Subject, or Subjects wherein it resides to be *Powers*: and the *Persons* or *subjects* themselves that are denominated Powers, which includes the sort of Government with the same. The words, *of God, ordained of God*, do likewise contain two things according to their common sense in other Scriptures, to wit, *Gods Decree, Counsel, or Providence*, and his *Law, Word, or Precept*. Let us but adjust these matters now as we ought. The abstract, thing, *Power* it self, which in the Nature

Nature of it is nothing but a right (*a right to Govern*, as was even now said) must proceed necessarily from that will of God which is *grantive* or *institutive*, that is, from his Law, Word or *Preceptive ordination*. The *persons*, denominated *Powers*, together with the *kind* of Government included in the same, being not determined by Gods Word or Law, but left to the liberty and choice of men themselves, are of God by his decree, dispose, or *Providential ordination*. The Powers then that are in the Text, that is, the Powers *concretively* taken, are of God by his *Providence*, and are of God by his *Institution*. The *concrete* contains the *abstract* in it. They are of God by his institution in regard of the abstract, because the abstract thing is wholly from thence: and they are of God by his providence in regard of the kind of Government, and the Person. And thus far may the arguments of Mr. *Gee* in his elaborate discourse of *The divine Original of the Magistrate* (c. 5. §. 3). take place. The thing *Power* it self whereſoever it resides, derives it self from Gods grant, and the Concrete hath divine warrant on that account. That will answer what he brings, which though he seems to strain higher then so, untill I shall hear some Minister in stead of *Charles by the Grace and Appointment of God*, to say, *Charles by the Law or Word of God*, of *England*

King, I shall be pretty sure, where his cast must be pitched. And when I have said already that the Constitution of the Government and persons governing (simply considered in themselves) are not of God imaginably by way of institution (but for the sake of the abstract thing, Power it self), they must be the ordination of his Providence. They are what God hath appointed, ordered, determined to be where they are, and that is the respect, I judg, wherein these *Humane creatures* or *Ordinance of man* in St. *Peter*, are the διαγὴ θεοῦ the ordination of God in St. *Paul*, upon which we see our Subjection is Founded.

It is certain that the abstract thing, *Authority* it self, is that alone which is of Divine necessity. Now shall a man hereupon plead thus? As for our Rulers and Laws, they are all nought, we like not any thing of the very constitution, and if we combine to endeavour the extirpation of the whole, we will not meddle with what is Sacred. That which he hath appointed is, that there should be Authority and Subiection which we intend in Rulers and Laws that shall be better, but as for the form of Government, the persons Governing, and laws Established, these are humane every jot, and not at all the *Ordinance* of God, which we *resist* not. God forbid that any should presume to

argue

argue thus, for it is not only the *Power* it self, but the *Powers that are*, whether *the King as Supreme*, *and those sent by him*, the *Power* and the *Qualification* of it, which are to be submitted to by this Text, and that upon this ground, that they are the *Ordinance of God.*

There is no Christian goes to his prayers, but he is to pray that the will of God be done. How far this will may be extended, Christ hath taught us in that passage in his Agony, when Flesh and Bloud would willingly have had that Cup to pass, he adds, *not my Will, but thy Will be done.* What will was that? Not his *Preceptive will*; the *Jews* were not bound sure to put to death the Lord of Glory and shed innocent bloud: but his *Decretive Will*, what Gods hand had determined before permissively to be done. Let the will of Gods good providence be what it will, when man does not know it he may submit to it; and when he knows it, must not he do it? The Powers that are, as they are, are the ordinance of his decretive Will, and the Institution presupposed, that is the ground we are not to resist them (the ground of the command not to resist) upon pain of Damnation. I mean not as if the Will of God in the rightful constitution of Kingdoms were but *permissive* only, for so there is

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no agreement of Thieves and Robbers to ſteal and kill, that is not by the *Will* of God, *not hindering* what they act, which yet he doth forbid and puniſh: but I underſtand it as that which doth both concur effectually to the doing as in all acts that are good, and by his command of our Subjection *approves* and *conſerves* the ſame being done. *Si ordinationis voce res intelligeretur quam Deus tantum non vult impedire quo modo ſe Deus habet circa vitioſos actus nulla ſequeretur inde honoris obligatio, nec tantopere hanc poteſtatem predicaret; Sequitur ergo ut ordinata hæc poteſtas voluntate Dei approbante intelligatur.* Nor will I be underſtood after this to exclude the univerſal Law of Magiſtracy, or inſtitution of the Office, from Gods *Ordination*, for that indeed is to be preſuppoſed to the *Apoſtles* precept. He could not bid us *Be ſubject*, if that command had not its riſe and Foundation in Nature, and ſo is to be fore-conceived I account, or preſumed to the ſame.

In ſum, the powers that be then, are of God, by his providence, by his approbation, by his law. By his *providence* as I have already ſhewn. By his *approbation*, as all wholſome Laws which men do make, *ut humana et humano modo*, are approved of him. By his *law*, as there is an univerſal ordinance for government, from whence, a Commonwealth being framed and the Perſon

Person or Persons designed, the Power does immediatly come, and in regard of the abstract thing, Power is self being immediatly from God, the *Powers* in the concrete are said thus to be *ordained of him*. Well, to go on where I left (not excluding the second and third in the first) God does think fit the powers should be *as they are*, thou art discontent and wouldest endeavour to alter them; who art thou O man, that wouldst intrude into Gods Seat? Dost thou know when thou comest to the bottom of this, what it is thou comest to? Thou wouldest be wiser than God, thou wouldest Usurp his providence, and have things otherwise. Thou wouldest indeed be God in his place.

But are we here at the Root? And is this firm? There is nothing comes to pass, but it is the Will of God, and must I submit to every thing, *that is*, so as not to desire and endeavour it be otherwise? May I not desire and strive to remove those evils that oppress me, because Gods Will is they should fall on me? I say, no doubt of it, It is Gods Will, *the Will of his purpose*, that you should have these afflictions, and suffer as you do; and it is Gods Will, *the Will of his precept*, that you should use the means to free your self if you can, and upon this account you act and endeavour warrantably. But if

God

God bring on you any evil, and command you to bear it with that vertue as becomes that condition, and not go about to change it, for it is his will, then is the case otherwise. When the people of *Judah* had their City and Land ransacked by *Nebuchadnezzar*, and they were afraid of tarying in the Land, and so thought of going to *Egypt*, this was doing no more then the Law of self-preservation might warrant; but when God had brought on them that calamity, and commands them to stay in the Land, under these Governours that were there, and obey them, then could they not go about to fly, but they resist the Will of God, and must expect a punishment suitable to their disobedience. Such is the case here, the governments *that are*, are appointed of God: There is the institution of the Office, by the universal Law of Nature always standing; there are these actual disposals of providence, making over the power to the individual persons; and such as they are therefore being once established, that ordination of God, is the ground upon which the Apostle builds this precept, *Be subject to them*; and the precept once taking place, makes our endeavour of alteration to be evil without any more adoe. Thou shouldest apply thy self to faith, and patience, and prayers, and thou thinkest of defence, and arms, and change of thy state.

When

When the Nation of the *Jews* had been under a Theocracy (God raising up Judges under him for their deliverance on all occasions) and they would needs have a King as other people, whereby they *cast off God* and so *sinned* (or else we might be tempted easily to think it no sin at all to cast off any man) *Samuel* tells them the *Manner of their King*, thus and thus he should do unto them, which was all grievous God knows: but let him do what he will, this in fine becomes their duty, they must submit to him, and nothing else can be done. Nor that the doing thus and thus there mentioned, was lawful in a *Moral* sense, the King was to be accountable for the use of his power; nor that it is meant only, thus and thus he would do against *Right*; but thus and thus he might do in a *Political* sense, so that if he did, according to the *jus Regis* of that State, they might not rise against him for it. There was no weight otherwise in his dissuasive from a King; so they might say, if the King will do as you threaten, we will turn him off presently and choose another, or change our Government again at pleasure. No, they might have recourse to God, and *cry unto him* (as the text says) but help themselves they could not, *Where the word of a King is, there is Power, and who can say unto him, what dost thou?*

Not

Not but that we are to distinguish between *Subjection* and *Obedience*, if I may use Dr. *Fields* words, and the sense of all Divines whatsoever. We are not to do always whatsoever the Magistrate commands; for he may command what is evil, and when God forbids what man requires, the greater Authority must take place of the less, according to the known decision of the Apostle in that case. Nevertheless we are to be in *Subjection* still, not disowning his Authority, but being ready to *suffer* his will (understanding that readiness aright) when we are not able to *do* it. *Tum in sacris tum in profanis rebus neq; iubentia neq; vetantia precepta obligant ad agendum omittendumve aliquid contra legem Dei, sive naturalem sive positivum, sed duntaxat ad patiendum, idq; tum demum ubi pœna evitari nisi vi opposita non potest.* Grotius *de imperio summarum potestatum circa Sacra*, p. 98.

It follows not then neither, that any man from hence may set the Text of St. *Paul* at variance with *himself*, and with St. *Peter*, and acknowledging that so long as the Magistrate is Gods Minister indeed, *a terrour to those that do Evil, and a praise to those that do Well*, he is to be obeyed, but when he shall do contrary, and be an encourager to vice and a terrour to the good, he is then not *Gods Minister for our weal*

weal, and to be submitted to no longer then till we can get power to deliver our selves out of his hands. God forbid! The title of the Epistle and the time when the Apostle wrote, will be a good refutation of this conceit. The Epistle is to the *Romans*, and the *Emperour* of *Rome* was then one of the vilest *Monsters* upon Earth. There is the *Magistrate*, and there is his *Acts*, and *Laws*, and *Courses* he takes. The Acts and Commands of a Magistrate, as his courses, may be such, as are not for the common good: and *the Laws of a Superiour which are not just and good, do not oblige the Conscience*, Dr. *Taylor* tells us *Cas.* l. 3. c. 1. r. 3. *Quod necessariam non habet conjunctionem cum fine publici commodi* (according to *Suarez*) *non potest præcipi lege humana*. See him de legibus l. 1. c. 7. The *Magistrate* nevertheless, and his *Government*, and *other* Laws which he *conserves*, are for the common good, and not to be *resisted*, but upheld. If *Nero* be Gods *Minister* for their good, and those governours *sent by him* were for the punishment of evil doers and praise of them that do well: If *Nebuchadnezzar* be Gods *Servant*, and to be submitted to on that account, then may not the wickedness of a Ruler, or the abuse of his power, priviledge us from our duty. If he does not *his*, yet must we do *ours*, and rely upon God. It appears then (as is

suggest

suggested) there is a difference between the *Magistrate* and his *Command*, as to the Authority they bear. Whereſoever there is the thing *Power* or *Authority*, it muſt, I will account, be obeyed, for *Power* is a ray of divine Majeſty: But there is no man, the very truth of all lies there, can indeed have any power in things that are unlawful. For power being a *right to command*, which derives from the *grant* or *will* of the Supreme Majeſty, as hath been ſaid: and there being no *will* of God, or any grant of his, that any perſon ſhould *command that* which he has *forbidden*, it follows directly that ſuch a command which does ſo, is devoid of power, and that, *that* is the reaſon at the bottom of our *Non-obedience* thereunto, when *ſubjection* to the *perſon* and his *Authority*, is due ſtill, by the precept of the text.

I will yet diſtinguiſh, There is the end of the power, and the ends of thoſe that are in power, *Iſa.* 10. 7. Whatſoever the ends of thoſe who are in power be to the fulfilling their own wills, the end of the *power* is for the common good; and ſo long as that power, with the ends of it, are committed to ſuch a perſon, we are concluded; inſomuch that when we have the courage not to *obey* him in evil (if he errs *de fine*) for *wrath ſake*, we muſt have the patience to *ſuffer* in well doing for *Conſcience ſake*, and be in ſubjection

jection ſtill to the *ordination of God. Diſtinguendum eſt inter Imperij actum qui ſubditum ad agendum movet, & vim quæ patiendi aliquid neceſſitatem illi imponit. Cum Imperii actus effectu ſuo, hoc eſt, obligatione caret, vis tamen eo nomine illata effectum quendam habet, non tantum Phyſicum ſed & moralem, non ex parte agentis, ſed ex parte patientis, hunc ſcilicet, ut eam vim vi repellere non liceat.*

He is the Miniſter of God for our wealth (ſays the Apoſtle) therefore he muſt judg what conduces to our wealth. I know in mix'd States, as ours, the whole people, at leaſt in their Repreſentatives, do judg of their own weal, and ſo chooſe and preferr their Laws: yet ſeeing the King has a negative vote, there muſt be a judgment which is abſolute in ſome kind (as is agreeable to the nature of the State) committed to him *de fine & mediis* what is for his peoples ſafety, and what is for their deſtruction. Which yet is to be underſtood in reference to the Univerſality, not deſtroying that Judgment of private diſcretion, which every particular man muſt have, as to the lawfulneſs and expedience of his own actions. I will ſhut up this with a ſaying of *Tacitus*, much made of I find, by Writers, on this Subject. I took it up laſt from Dr. *Hakewel* in his *Scutum Regium. Bonos principes voto expetere debemus,*

qualescunq; pati, & quomodo sterilitatem, aut nimios imbres, & cætera naturæ mala, sic luxum & avaritiam dominantium tolerare.

ob You may say if here indeed be the ground of our subjection, then must many good people in the World be in a sad condition; for let their Government and Governours belike, be as evil as they will, they must bear it, and have no remedy. God hath ordained them *as they are*, and if they submit not thereunto, what is it, but they will not have Gods Will to be done? They *resist his Ordinance*, and shall incurr his *Judgment*. sol. I answer, let this seem as hard a condition to the subject as it can, it is to be received as the true [illegible] the Religion that is Christian; as [illegible] intent of the Apostle in the place. If Christ command thee to *turn thy Cheek to the Smiter*, and receive one blow after another, rather then to revenge thy self and strike again, *Resist not evil*, is there any towards whom this is to be exercised like unto our Rulers? Here is one part of a disciples denying himself, and taking up his Cross; of that Meekness, Humility, Faith, and Patience, with the like Christian Graces he is to actuate all his life. The Lord his God knows what is best for him, and such a submission, though unto death, is better for him in the everlasting Issue, then to be freed from it; or else his Father would never

ver have appointed him to it, as he did all his fellow Servants, during the first Persecutions, which made so many to suffer, and lay down their lives, when their Towns and Cities were so full of Christians, when particularly a whole Legion of 6666 (if that Story be true) could yeild to a decimation twice over, upon an injunction to Sacrifice to Idols, while the Sword was in their hands, rather then resist, and incurr the danger of this Text, by a defence so just, that you perhaps are tempted to have lik'd them better, if they had done it. But the Weapons of their *Spiritual* Warfare, were more mighty then their *Carnal*, which made them lay down these, and fly only to their Prayers and Tears, to their believing and suffering, and the *Will of God be done*.

Nevertheless, as for our State, God be blessed our condition is not so hard in this Nation under the Powers that are, but if there be any thing that is grievous to the people, it may be altered in a way agreeable to the same, that is, by the way of Parliament, with consent of the King: So that to endeavour any alteration that way, is no resisting the ordinance of God; for Gods Ordination with us is such, as allows such an endeavour when it is needful, in the ground-work of the Land. To this purpose I observe, in the Act for preservation of his Ma-

jesty, where it is made a *Premunire* to affirm, there lies an obligation on any from the Covenant, to endeavour a change of Government in Church or State, and highly criminal to speak against the same as now established; there is a *Provided, that the Act deprive not the Houses of Parliament their privileag, of debating any matter touching the repeal or alteration of any old, or preparing any new Laws, or the redressing any publick grievance*: Now we must take consideration therefore, of persons in a *publick*, or in a *private* capacity. Let a man who is in a publick capacity, as a *Clerk* of the *Convocation*, or *Member* in *Parliament* offer any thing of alteration (I speak as to the *Administration*, not *Constitution* of the State, which they are not to alter or dissolve) that is commodious to the Church or State, and prosecute it with vigour according to his Conscience, this is to be look'd upon, as a part of *Subjection*, which *the Powers that are* do require of him in his place, not any *resistance* of it. But let a man who is only in a private capacity go about to make any alteration, that is, in a way not allowed by *the Powers that are* (whereas if it be in a way appointed, he may be reckoned to act in a capacity *political*, though a *private person*) this mans endeavour is a *resisting Gods Ordinance* in the most intimate sense that the thing does import.

For

For what is *resistance* here? It is not the refusing *Obedience* to what the power commands, seeing that may be done in case of sin, without blame: but it is refusing *Subjection*, and not yielding to the Power that is, when a man cannot bear with it, but will have the ordinance of God to be otherwise then it is, and so goes about, whether by Arms or other means not appointed, to undoe what by his providence is established; that is, endevours it be not, so much as in him lies, and what is *resisting* more directly then this is? Take heed, will you dispose God of his dispose of things according to [redacted]n Will, as if he did not know what w[redacted]er for the World and for your self then [redacted] If you go the way before, you follow Prov[redacted]ce, if you go any other, you resist it. And [redacted] that resists, receives to himself damnation.

Having purposed here the end of this chapter, a rub stays me, There are some very likely, may be apt to think, that those persons who have a title to the Government in any Land according to the constitution thereof, have more then providence to plead for their being *the Powers ordained of God* in the Text of the Apostle, and so may find fault with something here that is passed. I answer, If any Ruler have indeed *more* to plead for his being *of God* then

providence, then hath he *providence* to plead for it, and what I have said on that score, will do him no hurt: Nevertheless the constitution it self, and so the *title* any have according to that constitution, and the *persons* to whom the Government belongs according to that title, are *of God*, we are to know really, no otherwise, then by his *providence*, which hath ordered and disposed the hearts of men to agree so, that according to such a constitution, such a person, should have such a title, and so being designed for the Government there is nothing else but the *institution of the Office* with it, that goes to the making him the power *ordained* of him.

That there should be some to bear the Sword for the punishment of Vice, and encouragement of Virtue; or that some should be the Ministers of God for the common good, which is that I call the power *in the abstract* (that is abstracted from the *Qualification* put on it by the constitution) is the Precept of God expressed in the Apostle, and in the light of Nature, and so of divine institution: But what the *person* or persons shall be who bear the Sword, what the *form* of Government, what the *constitution*, what that which shall give title according to it, what the terms upon which the Government must be held, and the several par-

particular customs and laws which are convenient to be observed, according to the diversity of place and Nation, These are all (if they may be called all, which come in effect into one, to wit, *the Qualification of the Power*, as I call it otherwhere) left to the liberty of man: and to go about the thinking out any other *Ordination of God*, then this of his Wisdom and Providence in these things, will quit no cost, because it cannot put any barre to the *Usurper*, nor bring any more advantage to the *rightful Governour* then this does. For how shall that man who usurps the Government plead any title from providence, when it is the *Ordination of Gods Providence* in the Nation, which is directly contrary to his claim? *The Act of providence, productive of Civil power, is that, which disposeth of the right and title, and not of the meer possession*, says Mr. *Gee* herein very well, p. 129. And which security is greater to the Prince, to make a *resisting* of him to be a resisting of Gods *Precept* only, or to be a resisting Gods *Providence* also, a θεομαχία, and entring Gods Throne? Nevertheless, in regard that there are few or no Dominions Hereditary, but there will now and then step up one out of his rank, and it is very dangerous to make the people judges of their Princes titles; and in regard that the command of God and Nature for Government it

self, or the necessity thereof in general, is so far to be prefered before the singular interest of any person or persons therein concerned, there is a determination to be attributed to *Providence over-ruling the Title* in some case; which, if I may deliver my opinion, in short will come to this, that though no person, *as to himself*, does become the Power *ordained* in the Text meerly for his *possession*, yet does he become so *to us* upon his *reception*, and good Administration.

I distinguish here, between the part of the Usurper, and the Subject; Between the Usurpation, and Gods Providence ordering and disposing the wills and consent of the people to his admission. The occupant, I judg, cannot hold what he has got, with a good conscience toward God and his Neighbour whom he hath wronged, but he is bound to restore it to him that hath the right Title: yet I think (I say) when Providence hath precluded him from any possibility of returning to enjoy it, and hath enclined the hearts of the generality to a dedition, the *particular Subject* for his part is concluded in point of Subjection. And this I suppose our Law does favour, which will own the wholsome Statutes of a *Richard* the 3*d*. or *Henry* the 4*th*. as of an *Henry* the 2*d*. and *Richard* the 1*st*. And if it were

not

not ſo, then might the thirteenth to the *Romans* for ſeveral if not the moſt part of our Kings, from the *Conquerour* to *Henry* the Seventh, be laid by, and ſignifie nothing, and we to reckon no *higher Powers* during their Reigns, *ordained of God in our* Nation.

CHAP. II.

The Ground upon whioh all Lawfulneſs for any People to endeavour the change of Government when it proves grievous to them is Founded, rendered inſufficient and diſſolute to our State.

NOt that we live without Intelligence from daily Hiſtory of the lubricity and common mutations of this World, both as to perſons and States or Kingdoms; Nor can it be hid from the conſiderate how deep a root and footing there is in Politicks for the ſame; which do receive a diverſe Meaſure and Judgment according to the condition of Time, Place, Perſon and Conſtitution, where they are made. There is no Authority (it is pleaded) one man could have over another, who by Nature are equall, but he muſt *Cedere de jure ſuo*, and let him have it by conſent: ſo that all Power Originally was

was given to their Rulers by the people, and to the common good, and if they use it therefore to their hurt, they may take it away again.

For demolishing those strong Towers of Liberty and Insurrection, which have been, or may be built on this Foundation, I am not Ignorant of the more ancient device, promoted afresh by a late great name, that would do it effectually, if the difficulty of that way were not so apparent and inextricable as a man cannot abide by it, and that is, by deriving all Government from *Paternity* or *Genarchy*. But besides that, a man can hardly be content to have that made the Basis and proper Title to Magistracy, as will leave us never a Magistrate of the right Stamp in the Universal World, since *Noah* and his Sons deceased: It is manifest, as Authors do distinguish their *Oeconomicks* and *Politicks*, so is the Power of a *Father* and the *Magistrate* really different, in the *kind*, and *foundation* of the Relation; the one being of *Choice*, the other of *Nature*. *Quasi vero nihil interfit inter magnam domum, & parvam civitatem*, says *Aristotle* in his *Pol.* l. 1. at the beginning. Over a Multitude (says *Hooker* Ec. *Pol.* l. 1. §. 10.) *consisting of many Families having no dependency on one, as the Family or the Father, impossible it is that any should have compleat lawful Power but by consent, of men, or immediate*

diate appointment of God. These words (though but a few of many) are directions enough in this point, *I am perswaded* (says a sober Writer for Monarchy, in the late distractions) *it will appear an uncontrollable truth in Policy, that the consent of the people, either by themselves or Ancestors, is the only mean in ordinary Providence, by which Sovereignty is conferred on a person or family.* It is not for me therefore, to go here against the Stream of so much light. I must acknowledg that a *Community* of men are not a *Herd*, to be *driven* into Government; but as subjection is a *Moral* act, and they *free* agents, they do come into the same by *agreement*, and that through a kind of *Potestative* act, as I am apt to conceive of it, unto which, as they are commanded, they must be Authorized by the *Will* of God.

We must know therefore, where there is a Company of Persons and Families in a Vicinity fitted for receiving a form of Government not yet introduced, this is called a *Community*; who though they have a *propriety* of what they possess, and *liberty* of *person*, and consequently an *equality* in respect of one another, yet is there, according to Nature, a Superiority in the *Universal* over each *Singular* person; that the giving place of all *distributively*, to the good of all *collectively*, is not free *in foro interiori*, in

regard

regard of Conſcience, when it is free from any, *in foro exteriori*, in regard of Compulſion. It is a queſtion whether a Community (as juſt now defined) be obliged to enter Society for the common end of Government, or no? That is, whether *Sponte adducti*, or *Dei præcepto* they do *coire* into a *Commonwealth?* I ſee what has paſſed from *Grotius*, but if it be not a duty from the light of Nature (which is Gods precept) then is not a Commonwealth from Nature (which the *Bees* teach us) and Government from divine inſtitution, when yet the Text tells us, it is the *Ordinance of God*. If it be, then muſt the ſame Law of Nature, that requires men to enter Societies, require that ſome ſhould *follow*, and ſome *lead* in the doing. Thoſe that lead are the prevalent part, whether by Wiſdom, Riches, Valour, Goodneſs, or bare Majority. The providence of God that deſigns the perſons in all Governments, deſigns theſe to the leading the reſt unto Government. Theſe act as they repreſent the Univerſal, and in that name they have right. Now a *right to lead* from God is *Poteſtas*. There may be Poteſtas (as *poteſtas ordinis*) which is not *coercive*. This power in the Community is not to all purpoſes, but to this purpoſe. It is their Office to conſider and determine what Government is beſt for them, and ſo to frame their con-

conſtitution and appoint their Governour. If they have not Authority from God to do this, how comes the conſtitution to be binding to Poſterity, and have the preheminence over all the Laws that ſucceed? If no *Law* can be made but by Authority, can a *Conſtitution* be made without any? A right to frame the Conſtitution, and to *bind* others, muſt be Power. If the leaſt Law be from a higher Power, the greateſt muſt be the higheſt; and *Maxima poteſtas* is *Sovereignty*. What then can be more ingenuous upon this, when in a Community, *as a Community*, there are no perſons yet choſen in whom the Power ſhall reſide, to diſtinguiſh with *Biſoldus* and other Politicks in this manner. There is *Majeſtas duplex, realis* and *perſonalis*. *Real* Sovereignty is in the *Community* for the Conſtituting a Commonwealth, *Perſonal* in the *Magiſtrate* to adminiſter it.

Suppoſe a company of Families together under no mans juriſdiction. Frame we our Politicks. What are theſe people here to do? The Natural anſwer I think is, they are to do what is beſt for them. There are ſome of them think it beſt for them to remain Independent, but if it be not beſt for the generality to enter Society, *Society* ſhall not be of *Nature*, for therefore it is of God and Nature becauſe it is beſt. Here the firſt thing that appears in Policy,

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is this, that there is a *Good* arising from their being or living together, unto which they all of them have right. If Society be not best to some of them, as they think, in regard of their particular interest, there does appear next a right in the *Universal* that must take place of that right in the *Singulars*, as to the aforesaid *good*. This *good* however lies in the mutual help and assistance which by God they are bound, and able, to yield one another, if they do their Duty. To fetch this *good* out it is necessary they agree to an *order* of *Superiority* and *Inferiority* (which is a *Commonwealth*) wherein some may be appointed to see that men do this duty by compelling the refractory, and encouraging the willing, that the *good* be obtained, which they as a *Community*, while the Families are equal, are not capable to do. *And these are Gods Ministers* (says the Apostle) *attending continually upon this very thing*. Here then appears these two Powers, the *real* and the *personal*; a Power to *constitute a Governour*, and a Power to *Govern*. The right vnto the *good*, which is the end of the Government and Governour, belongs not to any one, but to every one, not to the Governour, but Community, and to him as one of them only. The Sovereignty then radically is in the *Community*, but the life and activity of it cannot be exer-

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ted but by a *personal* Sovereign, whose power begins where theirs stops, to the attainment *of the same very thing* in their behalf for them. There is power therefore in the Community to its proper purpose, and there is power in the Governour. The power of the Community is not *Governing* as the Magistrates is, and the Governours power is not to *make the* Constitution, as is that of the Community. These powers mingle not, nor hurt one an other.

The *jura Regalia* or *prerogatives indicate* a Sovereign; The prime *Regalia* are making Laws, and constituting Officers: the Community makes the constitution & constitutes the Governour. Is not that real Sovereignty? The Universality is the end of the commonwealth, the *finis cui* for whose good it is framed, and the efficient under God that frames it, and in this respect it is ἀνθρωπίνη κτίσις a humane creature; what title then can be attributed less hereunto then *Sovereignty* on that account? Suppose me in a Community where I have propriety of Goods and Liberty of Person, Does not the law of Nature bind me to consent to my own loss in particular for the benefit of the many? *Charity* I know barely, requires me not *to mind my own things* onely, but the *things of others*, but doth Charity bind me to *prefer* other mens? Charity

begins

begins at home, and requires me to love my Neighbour *as my self*, not *above* my self, and how then could this really be, unless the *Universi* did virtually & *eminenter præesse singulis*, and the *singuli a Deo & Natura universis subderentur?* In the *collective body* (says *Hooker*) *that hath not derived as yet the principality of power into some one, or few, the whole of necessity must be head over each part, otherwise it could not have power possibly to make any one certain head; inasmuch as the power of making a head, belongeth unto head-ship.* If there be not *potestas* in the Community, then is the constitution of a Nation no *Law*, the grand Law, the very Law of the Land no Law, which methinks is ill. If it be not Law before, but made so by the Princes subsequent act, then may he by a Sovereign act reverse it again, which will be worse. If it be no *Law*, then it is a *Covenant*, or *Contract*, but how shall that be a *Contract* which is made by *one party*, to wit, the Community about a Sovereign, while yet they have none? Nay what if the constitution be to have their Sovereign by Vote or Lot, how shall that be a *contract* between the Sovereign and Subject, when the Sovereign is not yet chose? A *contract*, I think farther, binds not a Successour, but by virtue of its being *Law*. And that which is yet worst to the main business, if one party breaks

breaks a meer Covenant, the other is disobliged.

After this unto the great Plea in hand, I shall put in my doubt, and answer.

I doubt here, that those golden days which Writers of Politicks have Fancied in all Nations, supposing them to have Model'd their own Government (as a body at first without a form) and chose their Governours according to it, may deceive us: seeing the first Lords and Rulers of the Earth (as *Nimrod*) got their Dominions by violence, and the people we may conceive after obtained such exemptions and liberties they could from them, in their *Successions*. Let us distinguish therefore between these two questions, what is *de jure* in Politicks, and what *hath been*, or is *de facto*? We discourse ordinarily on this Subject, and I think ought to do, as we conceive of things *de jure*, when if we enquire thereof strictly *de facto*, we shall find some little matter that is near or like to what our Politicians do write, and that is virtually to go for the same. The more solemn though, a Government is in forming, and the nearer to such principles it comes, the more desirable is it by man, and the more approved by God. In that Government therefore wherein God hath been himself an Author to us in Politicks (who knows

the beſt Rules to go by) when the people would have a King, and ſet up another Government, He directs this courſe. *Samuel* is to tell them firſt the *Manner* of their *King*, or *Kingdom* (ſo it is expreſs'd in two places) that is, the *Conſtitution of their Government*, unto which they *conſent*, and then is their King introduced, and this conſtitution wrote in a Book, and laid up before the Lord. There is but a reſemblance of this happily in the conſtitution of moſt Kingdoms in the World, yet is the *agreement* of the people *mediate* or *immediate*, *tacite* or *expreſs*, ſo neceſſary, that a people who are *Conquered* cannot be *Governed* as men by the Victor, without their conſent; and his Victory tends only to give him a right by inducing them to a *dedition*, which being done upon ſaving their lives, his grace and protection, there remains ſome ſhaddow yet of a *Conſtitution*.

I anſwer then, if the ſuppoſition were true, that the power of the Ruler was given by the people, as well as their conſent is required to it, and it came indeed Originally from them, then were the conſequence perhaps not irrational. But our Text tells us otherwiſe, *The Powers that be, are ordained of God.* Let me underſtand my own anſwer. If when a Community ſet up Government and made them a Ruler, they were at their own liberty, and might

might chooſe whether they would or no, ſo that the *Will* alone of the people was the Original of the Rulers Power, and that be a Foundation to bear it, then would this double conſequence I take it be good. The one, that They who were willing before to have ſuch a one for their Governour, to the end of Government, that is, for the common good, and he abuſes his Authority to their hurt, muſt needs be willing no longer; for, the End which was the reaſon of their *Will* failing, their *Will* muſt ceaſe alſo. The other is, that they ceaſing to be willing, and their Will being the prime cauſe and fountain of the Power, the Cauſe ceaſing, the Power, which is the Effect, muſt ceaſe with it. But the matter is not indeed ſo, There are no people I apprehend are at their own liberty, but under the command of God to enter Society, and yield to government for his glory; ſo that it is not the *Will of the people* but the Sovereign *Will* of Almighty *God* that is the Original of Power, and can be alone a Baſis ſufficient for it. For Dominion being founded in propriety, and God alone being the proper Lord of his creatures (as hath been expreſſed in the former chapter) there is no mortal can have right to uſe, or rule over, any of them, but by a grant of his. This grant, I have ſaid farther, does lie in an Act of his Will, which

is passed in his Word, and the light of Nature. I add now, this Note. Government in the Ruler may be look'd upon as his *Office* and Duty, and so this *Act* of Gods *Will* may be called his *Precept*; or as a Right and *Dignity*, and so it is to be styled a *Grant* or Commission: But whether you call it one or the other name, this *Will* of God is the thing from whence all Power in the World is derived and owed. It follows not therefore that when a Governour abuses his Power, and the people cease their consent, that his Authority ceases: because the Authority which is not received without their consent, does not depend upon that consent as the cause and root of it, but on the standing Will of God.

I will borrow a Simile from a late Writer, whereby he would shew how the *Ministerial* power does not flow from man in *Orders*, but immediately from Christ. It is applicable as well here. In Cities or Corporate Towns they have a Charter, which does allow them to choose such or such a person, to swear him, and perform such ceremonies; but when these things are done as appointed, the Power or Authority he hath to be *Mayor* for that year, flows immediately from the Charter, or grant of the King. Thus it is with the Supreme Power, in reference to its Original. There is an institution or Char-

ter from God, writ in the Law of Nature and the Word, that there ſhall be Authority in ſome, and Subjection in others, which allows men liberty to form what Government is beſt for them: but when the Conſtitution is made, and the deſignation of the perſon or perſons to govern according to that conſtitution, the power of the Supremacy flows immediately not from that Conſtitution, Election, Coronation (though by the Conſtitution it is *qualified* 'tis true,) but from that *Charter* which is *Divine*. And that this is indeed ſo, it may appear from thoſe titles God takes of *King of Kings*, and *Lord of Lords*. *By me Kings reign*, and the like. That is, a Univerſal Sovereignty is attributed to him, *of whom the whole Family in Earth and Heaven is named*; ſo that as there is no Subject can have any Rule in a Land (as in the inſtance before mentioned) but he muſt derive it from the King or the Supreme there; ſo is there no King or Potentate in the Earth can hold his Supreme Authority over any one ſingle Nation, but he muſt hold it both *from* and *under* him who is the Sovereign of the World. And hence it is that Gods repreſentation they bear, *I have ſaid, ye are Gods*, and it is recorded, *They worſhipped God, and their King*.

You may ſay what does this infer, The

Power of the Magiſtrate which is Temporary, or Pactionary, is from God and *immediately*, as much as that of any Hereditary abſolute Prince, Does it follow therefore that his Power cannot be taken away again? I anſwer, it follows that it cannot be taken away but on the terms it was received. If a Government be *Pactionary*, and the Magiſtrate breaks with the people, it is true that he muſt forfeit notwithſtanding his Power is immediately from God: But if it be not ſo, the deriving the Power from God immediately, does render it inviolable from that conſent that was yet at firſt required to its poſſeſſion. The reaſon of both being, becauſe the Power paſſes from God with the Qualification it hath put on it by man in the Conſtitution, if that hath rendered it conditional, ſo God will have it to paſs: if there be no ſuch Qualification put on it thereby at the paſſing, it once being paſſed, cannot be revoked by man to be qualified otherwiſe, becauſe it is not from him that it comes.

Unto Government there goes ſomething of *Divine* and ſomething of *Humane* inſtitution. That which is Divine flows from God *immediately* that which is Humane *mediately*. To flow immediately from God is to flow ſo from him as that nothing comes as a *cauſe* between his Will and the Effect. To flow from him mediately

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is when there are second causes concurr to the same. The *Quailfication* of all Government is from God *mediately*, because he hath referred that to mans liberty for good reasons regarding humane Nature and consent, and the will of man comes between God and it, so that, that is immediately according to Mans will, and mediately according to Gods. But the *Power it self* is from God *immediately*, because there is nothing comes between the grant or warrant, and the right, as any *cause* of it else; there is only a disposition of the Subject, which being put, the *form* flows as into the *matter* immediately from that Will. From whomsoever the *form* of any Government and the qualification of the Power according to that form does arise, the *Power* it self comes from *above*. *Aliud est imperium* (says *Grotius*) *aliud habendi modus*. Power in the Community is *Native*, or belongs to the universal over the singulars *without Concession*. Power personal in Commonwealths orderly framed is *Conventional*, upon consent, but that consent comes between only as *Conditio*, that is, *Causa sine qua non* (the Constitution must first be framed) but it concurrs not *per modum causæ efficaciter operantis*, to conferr or give the same. It is *Gods* Will, not *Mans* does that. They are *Gods Ministers* says the Text. *You could have no Power unless it were given you of God.* You

You may say if there be a real Sovereignty in the people, and they may choose what Commonwealth they please, and have what Supreme Governour they please; and he shall have no more Power, nor no otherwise then they allow and appoint, nay and he shall keep his Power no longer, and be lyable to be turned out of Power for mal-administration, if they at first so agree (all which is certain in their liberty only to frame their own Constitution): how shall we deny but the people give the Power, or how shall we say he derives the same from God? I answer, In the first place, when I call that *right* in the Community to frame their Constitution *real Sovereignty*, this expression makes nor marrs any thing as to the main business, only in regard the *Constitution* is the highest *Law*, and *Legislation* is the chief Right of Majesty, and the Community have that right from God to make their Constitution, here is that thing I count certainly which *Sovereignty* is, and to give it that name hereupon that others have done, will, I hope, offend no body. But as for the substance of the Objection, it is forelaid and prevented already. There is the *Power* it self, and the *Qualification* of it. The qualification, ordering, or disposition of the Power in what form of Government or Governours, as it may conduce best to the

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end appointed of God, that is, the Common good, is left to the liberty of man, and so is immediately from him, or as he appoints, but the Power it self, I say, is immediately from God. I have likewise presented you my understanding hereof. There is one and the same Charter or Institution of God in Nature, whereby he commands or wills a double Power, in a double Subject, and as two distinct rights in those two Subjects, the one is a right or Power to *constitute* a Commonwealth, the other is to *Govern* it. The *Constitution* is one thing, the *Administration* another. To argue that the Power of the Community is not such a Power as the personal Sovereign's is, which is coercive, therefore there is no *Potestas* in a Community, is all one as to say, there is no Power in the Prince to make the Constitution, and that being the highest point of Law-making, and Legislation makes a Sovereign, *Ergo*, he has not *Maximam Potestatem*, which is Sovereignty. These are two *rights* then distinct, yet as they agree *sub eodem genere* and are both *Power*, they equally flow from the same institution of God. God *wills* that a Community should frame their constitution, this gives them *right* to do it; A right of making any law or laws to bind others (even the governour and governed) is not Power only, I take

take it, but *Sovereign* Power. It is Gods will also, that according to the Constitution made, a Commonwealth should be *Defended* from enemies, by making War and Peace: and *Governed* in making Laws and Officers for the administration, and *doing Justice* to the Subjects, in rewards and punishments. *This* gives the Governour his *right*, and from *thence* he will derive it. It is true also that the Constitution puts an extension or limits upon these *rights* of the Governour according to the consent of the Community, because it is Gods Will also it should be so, that no man may *lift up himself above his Bretheren* but for their *good*: Yet is the *Power* in the abstract (when the *Qualification* thereof, I say still, is from man) only and immediately from God. I will renew the Simile before. Suppose a Prince should grant a Charter to any City not only to choose them a Magistrate which he hath appointed, but to appoint what Magistrate they please for themselves, to prescribe Laws and Rules for him to Act by, and that they may choose him absolutely for his time, or conditionally, and upon his Misdemeanour actually depose him, and then being in *statu quo*, constitute another kind of Governour, and other rules which they judg better, holding still under the King, who is there will not say this is *Authority*? and yet if they

they do not put him down, or chooſe him conditionally, the *jus* or right from the Charter (ſeeing they might if they would) is the ſame thing. If they ſhall chooſe him *abſolutely*, and he break their Rules and his own Engagements, they may repent they choſe him not *conditionally* at firſt, and they may complain to the King, they may *cry to him*, and he may puniſh him or remove him, but they themſelves *cannot*, the remedy now is out of their hands. The reaſon is (what has been given) becauſe that neither the Power by which they acted in conſtituting of him was their own, nor that Power he received upon that conſtitution, theirs, but both of them derived to them from that Charter of the King. I need make no application, only I would here ſhew that there is *Poteſtas* in a Community, and that this *Poteſtas*, when a Government is abſolute, can do the Governour no hurt. In Marriage the conſent of the Man and the Woman makes the Husband and Wife, but their conſent will not diſſolve the Marriage again, becauſe the authority the Husband has over the Wife, flows not from that conſent, but from the Law and Inſtitution of God. So may there be in ſome Commonwealths a conſent of the people peculiar to them, that is, neceſſary to their making the Supreme Magiſtrate, but the authority

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flowing from God and not them, it is not in their power to reverse what they have done. Provided though, it be not fore-agreed to the contrary in the fundamental coagulation of any State, for when the *imperium ipsum* is *alimnde*, the *modus habendi* must follow that agreement. Indeed if a Marriage-contract be broken, and a Woman become an Adulteress, the Man may withdraw his consent and put her away: when if the Prince who is absolute break his promise, the people cannot depose him for all that. The reason I would assign is, because that Marriage is in the nature of a *Contract* only, and so one party breaking it, the other is loosed: but the constitution of a Land which makes the Prince and Subject, is a *Law*, and if one person neglect to perform his duty which a *Law* requires of him, that does not priviledge another under the same to do so also.

Whither this drives then, you may begin now to conjecture. You are ready to say perhaps, But is not this notion of Real Sovereignty in the Community, that, *that* should be Law which they at first agree and conclude upon, something dangerous to *Anointed* Majesty? And why do you not fall in with those that oppose it, rather then with *Hooker* and the Stream that runs ordinarily in the sense or purport of it? I answer, you may judg by the sequel as

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to the one, and I will offer you a reason why, as to the other. I do apprehend by some opposition which is made against this notion (wherein there is little fear of what was done so many hundred or thousand years ago) that those who leave the light and benefit of this, must receive other notions, which if they be not more dangerous to Government, they are more irrefragably destructive to the Doctrine here undertaken. The *Constitution* is that which *makes* the King, *Lex facit Regem* say the Lawyers. What Law? not that Law which *he* makes, for that cannot make him, that was made by him, but the fundamental Law, or Laws of the Constitution, and the Law in our Books, as *declarative* of that. Now if the Constitution of a Nation do not proceed from *Power* in the Community, that is, from such an authority from God, given at first to them for this purpose, as shall be obligatory as a Law, then must it have the virtue of a *Contract* only, which must be supposed originally to be made between the people not yet Subjects, but free, and the Sovereign; And then whatsoever rights are found to be exempted in the fundamental Laws of this Contract from the Princes power, they must be kept inviolable to the people, or else the Constitution is dissolv'd, and they shall be free from their Allegiance.

Thus

Thus ſhall the *Cauſe* in the late Wars, and thoſe of the *Barons* be full Stated. Thus can there no right orderly framed Government in the Earth, be an *abſolute* Government. Thus muſt there be no fundamental liberties of the people of this Land, or of one, above others, but the King muſt be Pactionary, and the Prince no abſolute Prince. Thus the Parliament repreſenting the people as Truſtees to ſecure their liberties upon the violation of any of them, ſhall be juſtified if they raiſe a new Warr to our endleſs confuſion. But if we make the *Conſtitution* of a Land an Act of the higheſt Sovereignty (which we call *real*, as virtually being ſuch) that being Authorized by God, does therefore become the *ſtanding Law* to Poſterity, (as the ancient *Land-marks ſet by the Elders*,) never to be removed, then muſt the Power which is abſolutely derived on any perſon and his Succeſſors, continue inviolable againſt this aſſault, which is the ſtrongeſt I ſuppoſe that can be made at any time for Rebellion. For ſeeing it pleaſed Almighty God at firſt to leave the *Real* Sovereign (who goes down I will account when the *Perſonal* ariſes, leaving us but one Sun in our State at once) at perfect liberty to its proper Power (to wit the Qualification of the Government) ſo that the Community might make what Laws for the Conſtitution they

pleaſed,

pleased, and put a condition on them if they would, to wit that if the Prince broke them, or any of them, he should forfeit and loose his Dignity, but they thought best that their Prince should be absolute and his Oath only taken, leaving him, if he break it, to the Almighty: this Constitution being made, and the Power flowing to him from God immediately with no other qualifications then is put on it by the Costitution, it must remain irrevokeable, against all future contradiction. I am therefore very little offended with the *Politica* of Mr. *Lawson*, that dexterous person in this sort of Learning, whose book considering the time it came out, both for its Light into Civil Government, and his peculiar notion of Ecclesiastical, as Nationally Independent, whereby in his capacity he strewed the way at that season, for return of King and Bishop, is not to be envied its due praise, and cautious use to be made of it.

There is a question or two, you may yet ask me. The Power of a Commonwealth lies in its Sovereign; The Commonwealth virtually is in the Community, The Power consequently must virtually be there also; Yet is not the Power of the Sovereign the same with the Communities, yea, nor conferred by it, but *given of God*. How will you make these agree?

How

How is it then? *Ans.* Why thus. All Power is from above, That which is *from above*, is Gods *will*, a grant, passed in the divine Law concerning Man. The grant is not to the Sovereign but to the Community: The Charter in the Simile before, is the *Cities* Charter not the *Mayors*. If there be something granted then to the Community that the Sovereign has not, and to the Sovereign, that which the Community is not capable of, then is there *distinct Powers*; And the Powers being so, it appears that, although what is done by the Community in order to the Power of the personal Sovereign be acts of a preceding Power in them, *that* power of theirs does not make them Donours or intermediate causes of the personal Power, because his and theirs doth both flow, as hath been said, from the same *grant*. Indeed they are causes of the qualification (as is inculcated) which comprizes the *Manner* of their Kingdom with the particular person or persons Reigning, and upon that account are the people said truly to *make their King*, but as for the Power it self (the qualification being put) nothing is able to come between it and God. *De Regum authoritate, quod ex jure Divino non sit, quod immediate a Deo non descendat—sed mediante corpore collectivo—Tertus probat; Asseri enim Scriptorum sententia communi—De reg-*

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no etiam in Rempublicam interdum mutato apponit—Acutus Homo non distinguit inter formam, atq; Authoritatem Regiminis. Forma de hominibus esse potest, de Cælo semper Authoritas. Bishop Andrews. *Ad M. Torti librum Responsio.* p. 384, 385.

One thing more and that is the last. But what if a man cannot distinguish between the *Concrete* and the *Abstract*, the Qualification and the Power, and so holds only in grosse that God is the prime Cause, and Men the second Causes or Instruments (which is a Cause) of the *Power* of the Magistrate. Suppose their conceptions thus. *Pilate*'s Power (says *Christ*) was given him of God, yet did he hold it by Commission from *Cæsar*. Gods Will is, that *Cæsar* should be *Emperour*, *Cæsar*'s Will is, that *Pilate* should be Governour of the *Jews*; Thus *Pilate* hath his Power from God. Real Sovereignty in a Community is Native and Immediate from God; The personal Sovereign is constituted by the Community; Under Officers by the Prince; Thus all Power is of God. It may be ask'd then, What prejudice is it, would come to our Cause in hand by this? I answer, I think the Nail is driven closer by more blows, but if it have no more. I suppose it will, hold so long only as we resolve Civil Power into the Will Institutive of God, and not

into the Will of Man. Indeed we cannot (I think) do that clearly but by this distinction, something being left to Mans Will in it, and something not; but if any list to confound them, and hold the same thing more confusedly, or to disprove this, and be contentious, I am no Dogmatical Opinatour in my conceptions. There is this benefit (I will add rather) may arise upon their supposition, that the Original of Magistracy will lie more easy for the common understanding then it does. Civil Power hereby shall be *Potestas a naturali Orta*, though not *Naturalis*; Neither shall there need be for any in the deriving the Power of a Prince from God to Sweat so much as to make him a pedigree from *Noah*, that holds only the Community have *Potestatem* in what they do. God empowers the Community to make the Constitution; The Constitution empowers (they may say, designs I say) the Magistrate; Thus the Power is of God. *Deus Author, Populus instrumentum* says *Barclay*. *Dicitur etiam constituere Regem Deus cum a populo fieri præcipit, quod potentiam dominationis instituto regi delatam ita confirmat, ut infringi a populo, aut infirmari amplius, nulla ratione possit:* l. 2. c. 2. As there is no more certain argument that Lands are held under any as Lords, then if we see that such Lands in defect of Heirs

'Heirs fall unto them by *Escheat*: In like man-'ner it doth follow rightly, that seeing Domi-'nion when there is none to inherit returneth 'to the Body; therefore they which before 'were Inheritors thereof did hold it with de-'pendency on the Body, so that by compa-'ring the Body with the Head as touching Po-'wer, it seemeth always to reside in both; 'Fundamentally and Radically in the one, in 'the other Derivatively; in the one the Ha-'bit, in the other the act of Power, says Mr. *Hooker*, aptly well I take it according to other Political Writers, but not perfectly well I think, according as it ought.

It is certain (to summ up all this) that this great person and others that write on *Politicks* and *Laws* as well as he, do seem to give too much to the people when they make the Power which the Magistrate hath, to flow from them, and revert to them. *Dicendum est Potestatem leges condendi ex sola rei natura in nullo singulari homine existere, sed in hominum collectione. Conclusio est communis & certa. Suarez. De Legibus.* l. 3. c. 2. Again, c. 24. *Cum immediate sit in Communitate per illam derivata est ad Reges.* But we must be allowed here to distinguish in their behalf. And that first (as I have done) between the *Power* it self, and the *Manner of the Government*. *Licet*

hæc poteſtas abſolute ſit de jure naturæ, determinatio ejus ad certum modum poteſtatis & regiminis eſt ex arbitrio humano, ſays the ſame Author. For the *Manner of the Government* they are in the right then, *That* is, from the people undoubtedly. For the *Power it ſelf*, Diſtinguiſh next, between the *Cauſe* of it: and the *Means* through which, or *Condition* upon which, it flows. That the peoples conſent or agreement is the Condition which muſt be firſt put before the Power is given, or that there is no ordinary Means elſe, whereby Power is conveyed to a perſon who has no right before, I do hold alſo for undeniable: but that the peoples Will is therefore the *Cauſe efficient* or *Author* of the Magiſtrates Authority we deny. *By me Kings reign. The Powers that be, are of God.* When the Power does then flow immediately from Gods Inſtitution upon the conſent of the people being put as the condition, Diſtinguiſh we again of this conſent or agreement, which we may ſuppoſe to be made by way of *Contract* with the Prince: or between themſelves by way of *Conſtitution.* I do apprehend it no leſs dangerous in Politicks to ſuppoſe the Power of the Prince derived to him by way of *Contract*, than to make the people the *Original* of it. For if Power concredited to theſe and theſe individuals be the Ordinance of men upon ſuch conditions,

tions, then the Prince breaking those conditions looses his Power, or the Obligation of our Subjection must cease. *Pacta conventa legibus Dei & naturæ nituntur, a quibus nemo sanus unquam reges exemit* says *Serravia* himself, l. 4. c. 9. The only thing therefore which is safe and agreeable, is, to suppose this consent among themselves, and to be, that the Government shall be *Absolute*. And so distinguish we lastly between a Power *Constitutive*, and *Governing*; a Power of making Laws for the *Administration*, or the *Constitution*. The people have no Power which is *Governing Power*, they can make no Laws to *Govern*, or for the *Administration* of the Government, in rewards and punishments: but they have Power and Liberty to choose their Government, and Governour, and their agreement herein is the Constitution. If they agree that the Governour shall not be accountable to any for his actions, the Authority coming immediately from God according to their Constitution, it must be inviolable, and who can have a word to say for *Resistance*, Non-Subjection, or Rebellion?

CHAP.

CHAP. III.

The grand, and more difficult Cases in point of Subjection as to this Land, discussed freely, and resolved.

IT must be known, if it be not already, that the person, or persons, in whom the Supreme authority does reside (let it be where it will) has an Absolute and Universal power supposed to them by the Word of God, which if it receive any restraint or limitation, it is from the Constitution, Laws, or original Agreement only of the Nation where they are. This must be understood rightly, not in *materiâ Indefinitâ* (for *Kings by Conquest that make their own Charter* (or own Terms) *are set in the line of the Law of God and Nature*, says *Hooker*) but *in materia Politica*. And indeed that is so necessary in the nature of the thing, that we cannot conceive a Power Supreme unto whom no man can say *What doest thou?* that is, which is unaccountable to any other, but it must be free and unlimited. Not but the *Office* is limited (to use Dr. *Taylor*'s words), the Prince hath his duty set him as well as we, and the *Laws of God* oblige him equally, and that from

from the penalty (he being alike obnoxious to it) as the meaneſt perſon; but the *Power* is unlimited (ſays he) that is any otherwiſe then by his duty, and the *Laws which are Civil* cannot oblige him from (or through) the penalty, but upon the account of Ingenuity and Equity. *Licet non teneatur ipſius legis vi coactiva, tenetur vi tamen quadam directiva; Ratio ſiquidem naturalis dictat Principem legem iſtam ſervare quam is tulerit*, ſays *Coveruvias*. To this agrees *Suarez De Legibus* l. 3 c. *ult.* And, *Quæ ex jure naturæ dependent ijs princeps etiam tenetur, quia licet ſit Dominus aliorum, ſubditus tamen eſt Naturæ & civis Mundanus*, is ſolidly ſpoken by *Arniſæus De Jur. Ma.* l. 1. c. 3.

The Power is *unlimited*, I ſay, as to the word of God (Take it in its *Proper matter*, and that *Negatively*, not *Poſſitively*, for Chriſtianity in things of this nature does not, *de novo ponere*, but rather *ſupponere*), but it receives limits from the Conſtitution. *How far the Power of Kings may extend* ſays Mr. *Hooker* (not altogether to my thoughts) *the Articles of Compact between them and the people is to ſhew, not only thoſe at the beginning, which for the moſt part are worn out of knowledg, but whatſoever hath been after in a voluntary manner condeſcended to, by poſitive Laws, or cuſtom reaching beyond the Memory of*

Man. I know to this purpose, there is more then one sort of Government; and that of *Monarchy*, is either *Despotical* (or Arbitrary) according to *Will*: Or *Regal* according to *Law*. In the one there is no propriety of the Subject, therefore called *Imperium herile*. But the other is of *free* Subjects, who have propriety in their Estates and Goods. Such is ours, when this allay is so eminent, that neither the *Purse* nor the *Laws*, is in the Power of the King but by the Parliament, and that freely chosen by the people. Upon this account, there are some great Laws in a Nation such as *Magna Charta*, and Petition of right (*Augustissima illa libertatum Anglicarum diplomata & Sacræ anchoræ*) in this Land, which do oblige the King more particularly, and ought to be preserved inviolable. Now what if a Prince intrench upon these Laws, Put the Case at the highest, what if he should violate them? May the Subject take Arms, or rise against him for that? I answer, if I may distinguish here between the Kings own person and government, and those that act under him or are his Instruments, it were more easy for me to know what to say: But if I must speak indiscriminately, I will *speak as a Foole*, I think not; seeing such Laws themselves are with us, not *Conditio regnandi*, but *Sponsiones principis*, and who hath right

right to ask him *What doeſt thou*, or call him to account for it? *Regum timendorum in proprios greges, Reges in ipſos imperium eſt Jovis. Pacta conventa* no doubt (ſays *Seravia*) by the Laws of God and Nature are to be kept. l. 4. c. 9. *Quæ vero ſi violari contingat ab eo cui ſummum Deus commiſit imperium, nullum eſſe ſupra ſupremum judicem alium hic in terris, qui eum judicet cogatq; in ordinem.* l. 4. c. 11. *De Imperandi authoritate, & Chriſtiana obedientia.*

It is true there are certain things the King ſwears to in his Coronation Oath, but if theſe be *Conditions* of his Reign or Crown, how comes he to be King, and to Reign before he be Crowned? If the Coronation it ſelf be no condition (that is *cauſa ſine qua non*), how ſhall any thing done at his Coronation? Coronation gives not the King his Kingdome, which he hath *jure hæreditario* before. *Unctio Regem factum ſignificat, non ad Regnum jus addit*, ſays the Author *Deus & Rex.* If there be conditions of Reigning, then may he make a forfeiture, and be called to account, and how then ſhall the great prerogative of the King (as Lawyers ſpeak) be, that *he can do no wrong*? The meaning whereof is, that his Officers and thoſe whom he imploys, muſt ſee they act according to Law, or they muſt anſwer for it,

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but the King himself is accountable to none but God. Who doubts but a Master may promise some things to his Family, and they have a right thereby to his dealing with them accordingly, whose Authority over his house cannot be *Conditional*, out of question? By the way I gather, there can be a *right* which may not be *defended* (I mean by force, if one could do it). The *Persian* King was most absolute, ἀυτοκράτωρ καὶ ἀνυπεύθυνος, and yet that he took an Oath with his Diadem, so that he might not change their Laws, we may not only have *Xenophon* and *Diodorus*, but the Scripture in part to assure us. And that the Kings of *Egypt* were wont to take an Oath ἄρξειν κατὰ νόμους, to Govern by law, as ours do, *Plutarch* may be consulted in the life of *Pyrrhus*.

But suppose Conditions, and they be broken, unto whom does he make forfeiture, or who shall take it? There are in some States *Powers* which are *Coordinate*, and there the Less may joyn and bring the Greater to question; and what some Divines have said on the 13*th*. to the *Romans* will be current in those States. But is there any such with us, that derive not from *one* that is *Supreme*? Who then is it shall do this? Not the Parliament, because they are called by the Kings *Writ*, and when the Authority by which they sit is *from* him, they cannot be Empowred

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by *that* in any act that is *over* him. Nay, will they derive the Power from the Constitution with himself, though he calls them? if he forfeits yet, and ceases to be King, they must cease also, and be no Parliament with him. The Parliament then cannot do this as a Parliament. Nor can any Magistrate or Officer, as so, for the same reason. Nor yet any subject, as Subjects, for that is contrary to all Order and Duty, and a destruction of the fifth Commandment. What then can be said? Why this only, that the forfeiture is made to the Community (which is properly the *Matter* of a Commonwealth before they have *Form*) not under any other relation, but *as a Community*, and they must take it. If this be said, then cannot any part, or party, take Arms against the King, it must be confessed, not only because that he is *Major singulis* will be granted, but because *that* is not the *Community*. And if it must be the *whole*, as he is held *Minor*, *Universis*, then can I conceive of what is said very easily, in the notion; but really it is a thing indeed never to be done. For if there must be at least the *Major* vote or consent of the Community, how shall this consent be given? who shall gather them together, or take their votes? If any undertake it, they must be men in Power, others cannot: But the present Power that any have

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in their hands is derived *from* him, and they cannot use it *against* him. Nay they cannot act by it, but they justify it. It is unjust to act by his Authority, if it be forfeit. How! Act by it, to the denial of it? They cannot act then by any Authority they have to rise against him, *the Cause of it*, and they have no other to act by; and consequently they cannot act at all. Again, whosoever they be rise first they are but single persons, a part, a party, or at most a multitude, and as a part or single multitude they cannot do it, will be granted. The *Sword* does signifie *defensionem Regni & patriæ*, says *Bracton*, and no man as a *private* person *bears* that. As the *whole*, they *cannot* rise together, as a *part* they *may* not; and so is the thing never to be done. I will add, if there be any thing yet, you may conceive kept in; That, there are the Oaths of Allegiance and Supremacy have passed over the Nation; the *tenour* of these Oaths runs *absolute*, which will hold those that have taken them under the State and Capacity of Subjects: and consequently neither can the Sovereign make a forfeit, nor the inferiour judg the superiour according to the light of Nature.

What then may the King act *Arbitrarily*? God forbid? I say first, Let him take heed, he is therefore Sworn to the Laws, that being not

not lyable to man, he should stand bound toward God. I can say next, that no Subject but may choose if he command contrary to Law to obey him, as he must not rise against him And that is perhaps bridle enough to Sacred Majesty that if any do serve his *Arbitrary Will*, he shall suffer for it as against the Kings Royal *Crown and Dignity*, though it be by *personal* command. The Case of *Empson* and *Dudley* is known in the Law and our Chronicles. It is the Kings *Legal*, not *Personal* command in point of inconsistency, binds the Subject. But what if any regard not that, and he persist in his Will? We must wait for a Parliament, and there we are provided of redress against such men. But what if he shall not hearken to his Parliament? Then may they with-hold the Subjects Purse in supply of his wants. And thus far hath the Constitution of our State put the reins into the Subjects hands toward the bridling personal Majesty to his Laws. But what if he shall thereupon dissolve the Parliament, and take by Force what he cannot have by Law?

I will premise here, that some (and not the unlearned) who have handled this question, and maintain that the people are not upon any cause to take Arms against their lawful Sovereign, do come in the stating the matter to distinguish between a *King* and a *Tyrant*; a *Ty-*

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rant in *Title* and *Act*; and *Tyrannus in exercitio* they will account does *exuere personam Regis*, and *excidere de jure, etsi hæreditario.*

Legitimæ potestati propter Deum & conscientiam obligamur, in Tyranno verò nihil ordinatum a Deo, sed omnia Deo adversa & reipublicæ detrimentosa, says *Henricus Arnisæus*. *Regimen tyrannicum* (says *Aquinas*) *non est justum quia non ordinatum ad bonum Commune, & ideo perturbatio hujus non habet rationem seditionis, nisi sic inordinate fiat quod majus detrimentum sequatur.* 22ae q. 42. Art. 2. *De isto tyranno qui justum habet titulum, sed exercitio apparet tyrannus incidit in legem Juliam de vi publica.* Bartolus *Consil.* lib. trac. 6. *Quod scribis* (says *Barclay* to *Boucher*) *rempublicam posse eum occidere qui in ipsam hostiliter agit* (*si intelligatur de illo qui hostili animo, sive animo perdendi rempublicam agit*) *verissimum est; sed non ea ratione quia populus principe superior sit, publicaq; penes populum potestas resideat: Sed ea solum ratione, quod quia perdendæ reipublicæ animum gerit, is semet dominatu & principatu omni exuit, atq; ipso jure, sive ipso facto, Rex esse desinit.* In that noted Book *Adversus Monarchomacos. Num igitur obstrinxit se scelere* (says *Cicero*) *si quis tyrannum occidit? Populo quidem Romano non videtur, qui ex omnibus præclaris factis illud pulcherrimum factum existimat.* In that

that Classick Book of his *De Officiis*. *Enim verò maximas injurias inferunt homines propter cupiditates immoderatas, & non propter res necessarias: Verbi gratia tyrannidem occupant, populumq; impio dominatu opprimunt, non ut ne algeant, sed ut suas libidines impune expleant. Idcirco magna præmia præposita sunt, non ei qui furem, sed ei qui Tyrannum occideret,* (says *Aristotle* in his Politicks) l. 2. c. 5. *He is the Minister of God for thy good saith St.* Paul, *otherwise he is not Gods Minister, and hath to other purposes none of Gods Power.* Dr. *Taylor* Cas. l. 3. p. 35. *As for them* (says *Hooker* accordingly) *that exercise Power altogether against order (or more then ever they did receive) although the kind of Power which they have may be of God, yet is their exercise thereof against God, and therefore not of God, otherwise then by permission, as all injustice is:* and *cannot in Conscience* (at the end of the same page) *bind any man to Obedience.* I will not here cite the famous *Bilson*, I shall have occasion to do it after, nor Bishop *Jewel*, which two are noted by the late King in his papers to *Henderson*: But I will return to that learned *French* man at first named, who besides two other books of Politicks, hath writen one on purpose. *De authoritate principum in populum semper inviolabili*, and yet does thus determine. *Traditur Respubliea*

publica principi in eum finem ut illi præſit in ſalutem omnium, a quo ſi prorſus deſciverit, etiam de poteſtate cadit, quam non alio ſine ſibi commiſſam habebat.

I ſpeak this, and produce theſe Teſtimonies thus liberally, for the ſake of ſome peaceable Spirits (and it may be over-ſtrict Conſciences) who are, or have been haply, look'd upon as refractory perſons, in forbearing compliance to certain late Impoſitions, only becauſe they having read more, could not Swallow ſome unlimited Words ſo eaſily as others did that conſidered leſs of them. But then, as for my ſelf,

1°. I ſay firſt to the queſtion, This is never to be ſuppoſed of our King; and next I have ſpoken

2°. before, that Majeſty in our State I conceive ſuch, as can make no forfeiture. It is not *Poteſtas ſub conditione*, and if the Prince might *excidere de jure*, he cannot *excidere de poſſeſſione*, where there is none to take the forfeit, or call him to account for his doings. *Omnes quidem ſub eo, & ipſe ſub nullo* (ſays *Bracton*) *niſi tantum ſub Deo. Si ab eo peccatur* (ſo one reads it, not *petatur*), *locus erit ſupplicationi quòd factum ſuum corrigat & emendet, quod quidem ſi non fecerit, ſatis erit ei ad pœnam quod Dominum expectet Ultorem: Nemo enim de factis ſuis præſumat diſquirere, multò minus contra factum ſuum venire.* I will add in reference to the Drs, the Divines I have named

named, leaving the Heathen Orator and Philosopher to their higher sayings. As in Divinity they say of *Natural Power* which is properly δύναμις or potentia, that *posse malum, non est posse* (it is not the Power, which is *Strength* or Ability, but *Impotence*.) So may we affirm as rightly of *Civil Power*, which is ἐξουσία or *Potestas*, The Powers that be, are ordained for our good: That Power which is not for our good (that is the exercise of it, for the Powers themselves are of God and cannot be otherwise) is not *Power* but *Violence*; It is not the Power which is *jus Imperandi*, or which God *grants*. It is unlawful, *injustum* and not *jus*, and so *in foro interiori* truly *unobligatory*. But when I say and yeild this, I apprehend here some distinction. It is unlawful, to wit, *Morally*, as null, and accountable to *God*: but not *Politically*, as to be *resisted by the people*.

Bodin de Republica lib. 2. thus states this whole matter. There is the Usurper of Sovereignty, and the lawful Sovereign, whether by Succession, Election, Conquest, Lot, or especial Vocation. The lawful Sovereign is either Absolute or not. And there is the Stranger, or the Subject. For the *Usurper* he will have him slain, so that the prescription of a hundred years shall hardly save him. For the *Lawful* Sovereign, if he tyrannizes over his Subjects and is

not *absolute*, he may be proceeded against by Justice, or Force, as the States of the Empire have done by the Emperour, and so *Rome* and *Venice*. If the Sovereign be absolute and *perverts the Laws of God and Man*, there is the *Stranger*, who is of Force, as some Neighbour Potentate, and he (he counts) may come *Heroically* to chastize such a person, by the example of *Hercules*, *Dion*, *Timolen*, *Tamerlan*, and the like. But for the Subject, where the Sovereign is absolute and a true Monarch, such as (he says) in *Spain*, *France*, and *England*, it is not lawful to attempt any thing against them, their *Life* and *Dignity*, be they never so Wicked.

The conclusion comes to our purpose, yet will I put in some exceptions. 1. For the Usurper, This great Lawyer it seems had not learned to distinguish the *Power it self* which is of God, and his righteous dispose for the deserts and iniquities of men, from mans *Usurpation*. A Submission to the one under due Circumstances, is no approbation of the other. *Probantur arma sumpta in tyrannos in titulo* (says *Arnisaeus*) *sed non a subditis, verum ab extraneis, aut injustè oppressis*. 2. For the Stranger I make a stand, what has he to do, who hath neither Interest nor Authority, to come and meddle with anothers Kingdom? Ἀλλοτριοπραγμοσύνη is forbidden

bidden. 3. This voluminous *French* man had taken up what he says of our Government from discourse only (as he tells himself) with one of our Countreymen, and when he makes *England* an *absolute* Monarchy, he does yet lay down his *marks* or *rights* of Sovereignty so, as will make it not absolute. For the first and chief is, the making Laws, which he will not have enough, unless it be *without consent of others, either greater, equal, or lesser then himself*; when we all know, there passes no Laws with us, but they are Enacted by the King, with the *consent* of both Houses, and *Authority of the same*. 4. Though he treats of a Government *Lordly* and *Regal*, and puts the difference right as to the Subjects, that in the one they have their Natural liberty and propriety, and in the other not: Yet, as it seems to me, does he not touch the chief string; The *Royal* Monarch, he says, is one that *yeilds Obedience to the Laws of God and Nature, as he expects his Subjects should to him*: But so may the *Despotical* Monarch. The String that should be touched (if the Harp of their *French* Commonwealth were not set too high) is the Law of the Land, Will he have his Monarch to be *subject* to, or *over* that? We are not so shy perhaps as he. *Omne Imperium sub Deo. Rex sub Deo & sub Lege. Princeps est ubi dominatur Lex, Dominus ubi voluntas*

luntas. The Courts of Chancery or Law can avoid his Majesties Charters which are passed against Law; for the King is subject to the Law and sworn to maintain it, says Judg *Jenkins*. In his works. p. 48. And yet though we hold the King is bound to Govern, as we to obey him, according to Law, that hinders him not from being an *absolute* Prince, because we make not that a *condition of his being King*, but a *necessity of his Kingdom*; that is the *Manner* of our Constitution will hold him to it, but takes no forfeit on him upon *de failure*.

There is the Constitution it self of any State, and the Laws built upon it. As for the Constitution it self, there is no personal Sovereign whatsoever but he is *sub Lege* in that respect; The Constitution prescribes to him how he shall Govern. But as for the Laws hereupon for the administration which are nothing else indeed but the Will of the Supreme about the people so Governed, it must be acknowledged that when a Government is *Despotical*, or the State a *pure* State, the *absolute* Monarch in Politicks is *over* the Laws, because every Man is Lord of his own Will: When in a *mixt* State, as ours, where the Laws are not the Will of *one* solely, but *All*, in the consent of their Representatives, the Monarch here must be *sub Lege*, as to these Laws also, which is in it

Y. England is not a mixt state. It is a perfect monarchy, ye supreme power (as we have sworne, in ye oath of supremacy) is soly in one, the Kinge, and noe part of it in ye people. To say, that a monarchy is a mixt state, is simple non-sense.

it self clear. Neither does it follow because a Prince is not *absolute* with an *absoluteness* proper to *Lordly* Rule, or a *pure* State, which is hurtful both to Prince and People (when he may do what he please with the Laws,) that he is not *absolute* with an *absoluteness* proper to a *mixt* State, which is so equally attempered to the safety of the Prince and people, that he can neither *violence them*, while he is to Rule by the Laws which themselves have chosen; Nor can he be *violenced by them*, while his Officers are obnoxious (that they may not dare to act under him but according to Law only) but in himself left unaccountable to any but God for the transgression.

I must not pass over this yet. The case put is about Arbitrariness of Power. We own *Absoluteness*, not *Arbitrariness*. This requires our care. Let our forreign Writers plead to us *Tyranni & Regis parem esse licentiam, illud solum interesse*— To wit, that between a King and a Tyrant there is no difference but in their *Title*, and *end* of governing. *Tyrannus erit qui negligit & subvertit bonum publicum habitâ tantum ratione sui commodi.* Arnisæus in his *Doctrina politica* c. 9. ἥτις ἀνυπεύθυνος ἄρχει πρὸς τὸ ἐφέτερον αὐτῆς συμφέρον, ἀλλὰ μὴ πρὸς τὸ τῶν ἀρχομένων, is *Tyrannis* in *Arist. Pol.* l. 4. c. 10. We shall grant them, this indeed is one thing, wherein

they ordinarily differ, to wit in their ends. The one *regardeth the Wealth of his Commons*, the other the *advancement of himself, his Faction and Kindred*, as Sr. *Thomas Smith* speaks. But the formal reason of Tyranny as it differs from Royalty in a *mixed* State, I must place herein, that the one does *govern by Law*, so as therein he is *Subject* to it (which is *Hooker*'s Doctrine as the Judges before) or *under* it: the other *breaketh Laws already made, at his pleasure, and maketh other without advice and consent of his people*, as the named Secretary to two of our Princes (and thereby fitted to suite his definition to our State) does express it; and accordingly does add, *One may be a King in his entry of the Government, and a Tyrant in the administration. De Rep. Ang.* l. 1. c. 7. *Happier that people* (are the words of *Hooker* from *Archytas*) *whose Law is their King in the greatest things, then that, whose King is himself their Law.* Out of the same Author he adds, *where this order is not, a King groweth to be a Tyrant.* Indeed there will be a ground laid by us, both of danger and error if we distinguish not of places. In a Government truly *Regal*, to become *Arbitrary* is *Tyranny*: In a Government that is *Lordly*, Tyranny it is certain, must be somewhat else. Let it be what *Bodin* or any of these mentioned will make it. We have this advantage in

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our Temperature, that when in a Lordly government the people may call any Prince of theirs Tyrant, whensoever they are in effect but disaffected, and have strength, they cannot do so in ours. It is easie surely for them to say their Prince regards only himself, his pleasure and profit, and neglects the common Good, and so expose him to the hate and consequences of that Name. But it will be hard for any ever to affirm of a Prince of ours, that the Habitual, Constant, Predominant, tenour of his Rule and Government here is not according to the Law of the Realm, by, and under regulation of it. In this definition then of Tyranny, I consult the safety of my Prince, *Quod adprimè est utile*, and ought to be well taken.

I know moreover such Writers who are concerned especially in the *French* State do speak high, that there is no true absolute Monarch, who is not above his whole people and the Laws also; and they cite *Aristotle* to this effect. *Ubi Leges Dominantur negat*, Aristoteles *verum & absolutum Regem esse*. But the learned in the Customs and Laws of our Nation will speak just contrary. *Non est Rex ubi dominatur voluntas non Lex.* The Sr. *Thomas* before mentioned and *Buddeus* (which is but the same book in *Latin*) do tell us of a double Government a συμβασιλεία, and βασιλεία τυραννική. The

laſt he *Engliſhes* a *Royal Power regulated by Laws*, which he mentions I apprehend as a Portraiture *de induſtria* of ours. If *Ariſtotle* then ſpeaks as he is cited (which I have found not at once looking) I do ſuppoſe he means it of the former of theſe Governments ἀ παμβασιλεία, and ſo I will take the words of *Auſtin*, *Imperatorem non eſſe ſubjectum legibus qui habet in poteſtate alias leges ferre*, cited by *Barclay* when he is contending that a King cannot be ſubject to the Laws, meaning ſo as to be *compelled* by them. But as for a βασιλεία νομικὴ, where the *Leges ferre* does not lie in *Poteſtate* of *one* ſolely (as it does not with us) I muſt by this Counſellour's leave, take the boldneſs upon me to diſtinguiſh between *ſub Lege eſſe*, and *cogi poſſe*; *Legibus aſtringi*, and a *populo judicari*. As there is a difference between a *pure* and a *mixt* State: So is there (as is before intimated) in the abſoluteneſs of the Monarch, according to one, and the other. A mixt (*mollis* gentle) abſoluteneſs will think it enough to be *Soluta* (free) from the one, when a pure (rigid) abſoluteneſs will be *Soluta* from both of them. Let *Bodin* and *Hennings* who are *French*, and the learned *Scot* mentioned, being a *Conſilijs* to that King, advance their Monarch to a Power ſo abſolute that he may ſay what our *Richard* the Second was accuſed of his Nobles for ſaying

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ing, that *the Law was on his head*, it shall be the glory of our Nation, that we live not under such a *torrid*, but more *temporate* Zone of Absoluteness, while our Monarch is contented to yeild himself to an *astringi legibus*, and *sub lege esse*, so long as he is yeilded by us to be *Solutus* from a *Cogi posse*, and a *populo indicari*. *Et quod sub Lege esse debeat, cum sit Dei vicarius, enidcnter apparet, ad similitudinem* Jesu, *qui cum ad reparandum humanum genus in effabiliter ei multa suppeterent, hanc potissimùm elegit viam, quasi ad destruendum opus Diaboli, non virtute uteretur potentiæ sed justitiæ ratione; & sic Voluit esse sub lege* (Here strech not the Simile beyond the Staple) *ut eus qui sub lege erant redimerit. Noluit enim uti viribus sed ratione & judicio.* Bracton.

If any then will still press me with the *French* Politicks, and what I have noted in my third exception to *Bodin*, who holds that no Prince is *absolute* but he who hath the sole Power of Legislation, and yet that our Prince is an *absolute Prince*, I will make an end with him at once. An absolute Monarch *accipiatur dupliciter*. Either we may understand by it, One in whom the Sovereignty is *solely* and fully, wholly and altogether *placed*: or One whose Dominion is not held *upon Condition*. In the first sense there is no Prince in a mixt Govern-

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ment can be an abſolute Monarch, for the conſtitution of a mixt State does place the Supreme Power or rights of Majeſty in him with others. *The moſt high and abſolute Power of the Realm of* England *conſiſteth in the Parliament*, ſays *Smith*, l. 2. c. 2. But that our Princes of *England* are abſolute in the ſecond ſenſe, to wit, that no Mortal can take Arms againſt them upon pretence of non-performance of the conditions of their reigning, it is that we ſtand upon, as what *pro virili, tam Mercurio, quam Marte*, is to be maintained.

To proceed. But what think we of the great caſe between the King and Parliament in the late War? Is it not lawful to take Arms in ſuch a caſe? For the ſcanning hereof indifferently, The ground of this Caſe hath been placed I ſuppoſe by moſt of the Sober, in their apprehenſion of a *Co-ordination of Powers*, not well underſtood. They have ſuppoſed the Government to be a mixt Government in regard of diviſion of Power; As if the *Tres ordines hujus Regni*, were *tres Poteſtates*, as the ſeveral States united in the *Netherlands*: Or at leaſt as if one part thereof lay in the King, another in the Peers, another in the Commons, and each party were to defend his own. Now when in ſome forreign States there are petty Powers who depend not on thoſe that are greater, but

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ate distinct, and so have *jus gladij* (if they dare use it) in case of wrong against the greater: Many have been apt to judg likewise, that the Lords, or Commons, or inferiour Magistrates may do the like here, when they concluded the people, of themselves (*bearing not the Sword*) might not. Upon such a conception perhaps as this, the Wars were not the first of that Nature which have been in this Nation. But there is an handsomer conception of our Government, as a mixt Government then this.

The three usual sorts of Government being found to degenerate ordinarily from *pure* into their *extrams*, a *mixt* Government hath been invented as better then any one of the other, called a *Free-State*. A Government is *mixt* in regard of placing the Supreme Power. There are *three Estates* in our Land. Suppose these as some would have it, the *King*, *Lords* and *Commons* Let these three then, as thus conceived (though without any stress at all on the word *Estates*) be look'd on as *one person*, and the Supreme Power to reside in them *joyntly as one*. The King is *a chief part* (says *Lawson*) *and may not any more be divided from his Parliament than from himself*. The Supreme Power according to this is but *one* and *indivisible*, and the *jura Majestatis* shews where it lies. *Legislation*, the

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Dominium eminens as to the Subjects purse we know lies not in the King alone. Where the *last Appeal* too lies we know; and if the Militia were layn with its fellows, it would do the King not a jot of hurt in this notion, wherein he and his two Houses make but one, and when they are dissolv'd it rests in him altogether for Execution. Now if the Supreme *Power* be in these three *identified* not several, (that is, not in King, Lords, and Commons apart, but in the *Corporation* together) then cannot they be *co-ordinate Powers*, and the Parliament consequently can do nothing without him, which resolves the case. *A Parliament* (says Judg *Jenkins*, *is a Body composed of a King their Head, the Lords and Commons the Members; all three together make one Body, and that is the Parliament, and no other.* p. 80. There is such an incorporation as cannot be dissolved without the destruction of both, saith Mr. *Pym* in his charge. *This agrees with our Laws, and the Law of the Land.* p. 168. Again. *The two Houses can make no Court without the King. Before the* Norman *Conquest and since to this day the King is* Principium, Caput, & Finis Parliamenti. It appears by the treatise *de modo tenendi Parliamenta* in the Confessors days; By the Writ of Summons, whereby the Treaty or *Parler* in Parliament is to be had with the King

King only; By the Oath of Supremacy taken at every Parliament, *It doeth appear manifestly that without the King there can be no colour of a Parliament.* p. 148. It is objected by Mr. *Prin*, The Parliament can enlarge the Kings Prerogative, and therefore it is above him. The Judg answers, *If the King assent, otherwise not*, p. 48, This I apprehend short. Yea, it must not be the Power of the Parliament *quâ* Parliament, that is, of King and both Houses together, either to shorten or enlarge Sovereignty, because the rights of the personal Sovereign, or Qualification of the Power, does derive from the Constitution of a Nation, which is the only standing, grand, original Act of the Community: And the Constitution must be above the Parliament, being that, by Vertue whereof, we must suppose them to act, and to *be*. Indeed the King in Parliament is in some sense *above himself*, and above the *Laws made by them*, but not above the *Constitution*, which is the predominant Law (a thing at least that is still to be supposed as though it were extant) and must controul all. Upon this account, or bottom, is there a Solidity in the Lawyers advancing *ancient Usage* to that pitch they do, when otherwise, *Dies diem docet*, and latter reasons, have the more years. The Opponent and Defendant therefore, both of them in earnest, are out

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here in their Law, if they think a Parliament though with consent of the King can do so. By this answer, or by nothing, is Majesty rendred fixt, permanent, and indeed inviolable; beyond the reach of yesterday, and not obnoxious to any Mortal or Mortals, but to the Will and Power of God only.

You may say A Parliament with the King may do any thing, they can do this therefore, and if they please set up a new Government. I answer, I deny it. You may persist, The *whole people* may set up what Government they please, and consequently cast off any. But the Parliament are Representatives of the *whole People*: I reply, the people may be considered as a *Community*, or as a *Commonwealth*. The People in the capacity of a *Community* may indeed at first agree upon what form of Government they will, but in the capacity of a *Commonwealth* they can do no such matter. The reason is, because as a *Community* they are supposed to be in a State of liberty: but when they are brought under an order of Superiority and Inferiority, that is to be a *Commonwealth*, they are supposed to have contracted one with another, and must stand to their agreement. The Parliament now are Representatives of the people as a *Commonwealth*, not as a *Community*. The people are here *Pars subdita*, and cannot meddle

meddle with Government: Their Representatives (who with the King are *Pars imperans*) are chosen for Commonwealth purposes, and when they can make Laws, for the *Administration*, they can make none (as Waters can never arise higher then the Spring from whence they come) but in subordination to the Constitution. If the whole Nation therefore with the King would change the Government. He with his two Houses must give up the Supreme Authority, and when they have declared a Dissolution of the State, the people are turned into a *Community*, and may come to a new Agreement. The King then and the *Forty Counties*, indeed *might* do this, but not the King and Parliament.

Thus much from that Judg occasionally, to this purpose, though not on this account. But if our Government be a *mixt* Government (which is the thing we are upon) not *really* in the Constitution, but *nominally*, in regard of some Acts of Administration, it is another matter. I know there may be a dispute held about the three Estates in Parliament, whether the King is to be reckoned as one of those Estates or no? That he is, there is a Royal precedent, and the transactions of the late times, as is known, in the late Kings answer to the Parliaments 19 Propositions. There is perhaps to

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the reason of the thing it self; The three Estates assembled in Parliament may possibly be nothing else but the three States of Government there assembled, or comprized in that assembly. The three States of Government are Monarchy, Aristocracy, Democracy: How shall the first of these three be represented but in his Majesty? And how shall our Government be *mixt* of the three, if he be not one of them? *The Laws of this Kingdom are made by a King, a House of Peers, and a House of Commons. These three Estates makeing one incorporate Body are they in whom the Sovereignty and Supreme Power is placed*, says the King, in those papers mentioned. Besides, who hath the hardiness to say, if the Spiritual Lords were absent from the House, there could no Act of Parliament pass, or that when they were removed of late from thence by an Act, the three Estates were then dissolv'd, and our Constitution Parliamentary at an end? Nevertheless Dr. *Heylin* I remember, in his *Quodlibetical* paper does prove out of the words of a Statute in one of the *Richards*, and another of Queen *Elizabeth*, and out of my Lord *Coke*, unto whom Judg *Jenkins* refers, that the *three Estates* of the Realm are the Lords *Spiritual*, *Temporal*, and *Commons*. Let me turn to my Lord *Coke* my self. *The high Court of Parliament consisteth of the Kings*

Majesty

Majesty, and the three Estates—*These three Estates, and the King, are the great Corporation or Body politick of the Nation, and do sit in two Houses*—*But in ancient times both Houses together.* Part 4. c. 1. St. *Thomas Smith* after he hath distinguished the King (as it seemeth) from the people, he hath these words: *The people* (says he) *I call those that the word Populus doth signifie* (viz.) *the whole Body and three Estates of the Commonwealth*, B. 1. c. 7 Again, *The Barons for the higher, the Knights, Esquires, Gentlemen and Commons for the lower part of the Commonwealth, the Bishops for the Clergy be present to shew what is good* B. 2. c. 2. I have passages by me out of *Rawleigh's* prerogatives of Parliament, and others (I think) asserting this, which are needless to transcribe, seeing there are two passages express in the Thanksgiving for the fift of *November* inserted for the nonce in our Book of Common Prayer. However this be, If the Community of *England* when they set up this mixt form of Government we have (let it be *mixt* in what regard it will) were indeed so Wise and Reserved as to agree that no Laws shall pass, Money be raised, or War undertaken, without their consent given by their Representatives, called first to advise about the same, I admire they should leave the King at perfect liberty as to his negative Voice,

and dissolving their Representative at his pleasure. The consideration of the last of these alone makes me suspect that these *jura Majestatis* supposedly reserved by them, owe their derivation to the grants of Princes, gotten from them by Contests, rather then to that original agreement. And if Parliaments as they are called by the *Writ* of the King do sit and Act by that Authority alone which having called can dissolve them at Will, and by no *higher* (preserved for them by the Constitution) from the *Community*, then cannot the Parliament take Arms against the King, any more then the Subjects, as hath been spoken. *Parliamentum est solemne colloquium omnium ordinum Regni authoritate Regis, ad consulendum statuendumq; de negotijs Regni indictum*, says *Spelman*. Neither may any argue here as against me, If the Parliament hath its Power from the King, then the Purse and Legislation also is in his Power. He hath himself all that he can give. The argument is from that Topick, *Causa causæ est causa causati*, which must be understood *de causis necessarijs*, not *de contingentibus*: The King indeed may call a Parliament at his Will, but he cannot command their consent when he hath called them. Nevertheless I determine not but this Power which lies in the Parliament joyntly with the King, does

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flow to them immediately from the Constitution of the Land when called, rather then from that writ that called them to consult upon such an end. To go on then where I was last. The *Powers that are*, are only the *Supreme* or *Subordinate*. If the *Supreme* Power be in the Parliament, it must be in them as one with the King, and as one with him, they cannot take Arms against him: If their Power be *Subordinate*, they cannot rise up against the *cause of their being*, out of question. The summ of all is: I suppose the *summum imperium* of *England*, is *Regale*, not *Despoticum*; but *Regale absolutum*, not *pactionatum*. *Absolutum*, that is, *solutum legibus*. Not so, but the King is to govern according to the Laws (while I say it is *Regale*,) but he is not *Judged* by them.

CHAP. IIII.

One peculiar case farther, arising out of several late Acts [wherein that Position of taking Arms by the Kings Authority against his Person, or any Commissionated by him, is required to be renounced and abjured as Trayterous and to be abhored] taken into consideration, in regard of the Consciences of so many that are concerned.

HAving ventured thus far, I proceed to what follows. The Laws of this Realm, it is to be acknowledged according to what hath been spoken, are made by mutual consent, by the King and Parliament, and the Authority of *both*; and hence it is, that the King *singly* is *sub lege*, when some other *absolute* Monarchs in a *pure* State, and *Despotical* Government, are *Lords* over their *Laws*, as over their own *Wills*. Upon this Foundation it follows, that if the *Law*, and the Kings *grants* or Commissions clash, the Law must take place, because the one is but his *single* Will, but the other is his Will *joyntly*, with his whole people in their Representatives the *Parliament*. Put then this case: The Sheriff in execution of the Law, hath

hath Power to raise the County against any that resist him; The King in some concernment, upon some cause forbids the execution, yet he proceeds; The King Commissionates some Officers to withstand his proceedings; he raises the County upon them, and for all that executes his charge. The question will be, whether he be justifiable herein or no? How deep this draws, I leave to the Considerate and Wise. If he be justifiable, then is there a taking Arms according to Law, that is in the Kings name, or *by his Authority*, against those that are *Commissionated* by him: and how then shall such an Oath be sworn, or Subscription be subscribed, which yet is imposed upon the Lievtenants and their Deputies of the Counties in one Act; on the Aldermen or Burgesses of Corporations in another: on all Deans, Canons, Prebendaries, Ministers, School-masters, or others, that have any Ecclesiastical promotion, in the Act of Uniformity; and on the Non-Conformists that live within 5 miles of a Corporate Town, in the Act of *Oxford*?

It is not for me, here to be peremptory and definitive, in a positive determining the Sheriff justifiable or not: but upon supposing of either (to wit, that it may be he is *not*, it may be he *is*,) I shall be more sure and safe in the resolution of the matter.

The reasons to justifie the Sheriff do lie in the foundation mentioned: But there appears against him the Militia Acts. *An Act declaring the sole right of the Militia to be in the King.* An Act *for ordering the Forces in the several Countys of this Kingdom.* For asmuch as *the sole command and disposition of the Militia is, and by the Laws of* England, *ever was, the undoubted right of his Majesty, and that both or either of the Houses of Parliament, cannot, nor ought to pretend to the same, nor can, nor lawfully may raise, or levy any War offensive or defensive against him, and yet the contrary hath of late been practiced, Be it declared and Enacted.* In these Acts, and another as I remember, the *sole Power, Command and Disposition* of the Arms of the Nation is placed in his Majesty; and the word *Sole* as well as *Supreme* is used purposely for exclusion of the Parliament, that it lies *solely* in him, and not in the *Parliament*, or *any* deriving from them. It seems then, that the *Law*, which is the Act, or Acts of Parliaments, is not the *Fountain* of Power in the business of the *Militia*. It seems then (I say by way of reasoning, it seems) that a man who acts herein, is not to be Governed by the Law, but he must be justified by the Kings command. It seems then, that the Power which the Sheriff has in raising Forces for execuci-

cution of the Law, must be under the check and controul of the King, seeing in his hands the *sole command and disposition* of those Forces, as all else in the Realm do lie. It seems then, that the *Personal* Will of the King, which must indeed (according to the Foundation mentioned) give place to his *Legal* Will in other things, in the matter of *Arms* must have the predominance, or rather it must be held, to be all one with his Law, and absolutely to be obeyed. This I shall suppose first.

It may be *Objected*, There are some Statute, or Statutes, which in the late times were pleaded for resisting *evil Counsellours*, and *Commissioned Officers*, and the bringing *Delinquents* to punishment, notwithanding any *Letters* under the *Great Seal* or *Little Seal*, in the like or the same words. I *Answer*, I dare not take upon me so much skill in these Statute books, as I desire caution, and refer such Statutes to the more Learned in the Law, and what was said to them, by the eminent of the Kings party. It suffices me to produce these Militia Acts, wherein the sole right of Arms is declared to be in the King, and consequently the latter Statutes taking place of all former (whereof yet they are made but the interpreters) the Conscience is I take it in point of Law to rest satisfied therein; for whatsoever might be

pretended or supposed to be Law before, *this* is *declared* to be Law now, and what, ought ever (as the Acts account) to have been held so to be. It is a Maxime in the Law of Parliament (says my Lord *Coke*) *quod leges posteriores, priores contrarias abrogant.*

I will not conceal where indeed does lie the most grievous difficulty. *I A. B. do swear, or subscribe, it is not lawful to take Arms against the King; and I abhorr the Position of taking Arms by the Kings Authority against his Person, or any Commissionated by him.* It is absolutely unlawful I apprehend to take Arms against the King himself, or against any Commissionated by him *for the execution of the Laws*, or his Legal Will: but if he should Commissionate any to execute his *pleasure* or Private *Will* against the Law, here will be the question that is sore. Put the cases over I pray, as to *them*, put before as to the *King*. What if any *Commissionated Officers* should come to destroy *Magna Charta*, or the peoples Liberty, to kill the Country and take their goods, might neither Courts, Justices, Sheriffs, or People, resist defensively, yea and bring those Subjects to punishment? I will not give a positive answer to this question, there is no need always to do so, Nevertheless I will offer so much readily to it, as may give the conscience satisfaction

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in reference to the words premised, which here alone is that I make my task. I will suppose then, that it is not lawful on any pretence whatsoever to take Arms against the Kings own *Person*, his *Government*, or *Laws*: so that the first part of the words may be admitted on the account of what hath been said. And as for those *Commissionated by him*, it is in a second part, or clause, where the position to be renounced, is *the taking Arms by the Kings Authority against such*. Now I will suppose likewise, when the command and disposition of the Militia is declared to lie solely in the King, that it is not justifiable by *Law* to take Arms against those that bring his command in their Commissions, because according to the express words, as they appear, it is a flat contradiction thereunto. If it were lawful then for the *whole* people, when not for a part, to rise *defensively*, when not *invasively*, against any *Subject* or Subjects, when upon no terms against the *King* himself, in case of extremity for necessary preservation: this was not to be done by the *Kings Authority*, as justifiable by the Law of the Land (when the Militia Acts have declared the *Law* to be otherwise,) but if it were warrantable to be done, it must be by the *Law of Nature*, upon which they were to stand. I say not the point so stated is justifiable

sable by the *light* of *Nature*, I meddle not with it, I need not; But I say if it were, I should the rather discard the unsound pretence of *taking Arms by the Kings Authority*, or by his Laws, which would not hold *against such*, when there was the *Authority of God* in the Law of Nature, to justifie the same.

You may say to all this, It is not in the Power of the Parliament to give away the Militia to the King, but it must remain where it is placed by the Constitution of the Nation. I answer, If the Constitution of the Land be such that it places the Militia in the Parliament, and not in the King alone, there are few I think read in Politicks, will affirm that any Act of Parliament can rise higher then the Constitution. Nay, if any Law or Laws be made by a Personal Sovereign which do overthrow the Constitution, by vertue whereof, or rather according to which, he holds the Power he hath from God, such a Law, or Laws are destitute of Authority, and *ipso facto* null and void. The whole business therefore lies in this, whether the *Constitution* of our Land hath placed the right of the Militia in the King alone, or not? And here I know I am on the safer side. I confess according to the principles of Policy, it is a thing very agreeable, that where the Power of *Legislation* is lodged, there should

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be the Power of the *Militia*, that the Laws may be rendered of force; and where the Militia is placed, there should be the Power of the *Purse*, because the one can command the other. This is therefore the handsomer notion I have said before, yet if it hath so pleased any Community in their framing their Constitution, for reasons to themselves, to place these matters otherwise, who can say to these *Potters*, why have you framed *your Clay thus?* And what if the Founders of our State have seen it good that they would not have their Laws made, nor Estates touched, without their own consent in their Representatives, and yet in the business of making Peace and War (where present Counsels and Expedition is necessary often times, that it cannot wait such a preparation as that) they thought it best to dispose the Power thereof altogether in the Prince, who can say any thing to contradict the same? I confess it is not in the Power of the King and Parliament to *make* our Constitution, no nor to alter it; they are the peoples Representative to *Parliament*-purposes, not to *that* purpose, but it is in their Power to *declare* it; this is not only in their *Power*, but *this* I take it, is their *Office*. And though there be no *declaration* can be valid in apparent *falshood*, because truth is greatest, and must *overcome all things*;

things: Yet when its impossible to evince the contrary, the declaration of our Superiours that are in Authority over us, must be obligatory, both because of the fifth Commandment, and also because otherwise we must be at an endless loss in the case. There be some to this purpose will tell us that the *division* of the *Regalia* in our State, to wit, the placing the *Militia* in the King, the *Purse* in the Parliament, and *Legislation* in them both, is agreeable to the *Lawyers*. I undertake not that, but I may be apter to *believe*, then *disprove* them; and when I suppose as readily as any, that in the Constitution of a State, it is very suitable to Politicks to lay these *jura Majestatis* or prerogatives together, and make them *inseparable*, and consequently that those persons who have placed the Sovereignty of our State in King and Parliament joyntly on that account, have spoken tightly according to the rules and reason of those who write of such things: Yet when we come to the point of fact, whether it be so in the Constitution of our State indeed, or no, this is certainly another matter; and I may not argue, this or that seems most *agreeable to my reason* to *have* been done, seeing the question is only what *is* done? Wherein we must at last either have recourse to some *records* which are *authentick* to the contrary, or else sit down

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in that which is next of credit hereunto, the *declaration* of Parliament about the same.

I will add, if it could be proved that this was part of the Constitution of the Realm, that the people might defend their rights against any that invaded them, saving harmless the Kings person, yet must this Position (in the words expressed) be discarded still. I make it good. The Constitution of a Nation we are to know once for all (whatsoever the *Civil* or *Common* Lawyer may call *Constitution*) is in Politicks nothing else but this, to wit the Original agreement of the people, how, and in what manner, they would be Governed, when at first they framed their Commonwealth: and if it could be proved then, that the Community of *England* agreed or consented not to be Governed by King, or by a King and Parliament, but on these terms, that they would defend their rights against either, if they were invaded by them, then must not their taking Arms in that case be by the Kings Authority or Parliaments either, or by vertue of any Law proceeding from them, but by the Authority of the Community who framed the Constitution, and by vertue of that Mother-law, upon which, as above theirs, the personal Sovereignty of King and Parliament both depends. But now in regard this is not a thing possible to

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be proved, seeing we have not a Coppy of that original agreement, so as what is essential and naturally consequential to Parliaments we may suppose to belong thereunto, but otherwise we have nothing but the footsteps of the Laws which have successively passed in our Parliaments to insist upon, and they having now *declared* the right of the Militia, not barely to *be*, but *ever to have been* in the Prince alone, we are to conceive of this Grand Charter, which is *Magna Major*, (and time hath eaten the words out) to have been accordingly; and not to have been contrary without Testimony or probation.

If we look over our Nation, the first time we hear of it with any truth is under the *Romans*. Then came the *Saxons* and divided it into an Heptarchy; then one of those Kings prevails over the rest and reduces it into one Kingdom; afterwards came the *Danes* for a lesser season; and then *William* the Conquerour, and so we continue. Now where I pray, or in whose time shall we lay the *Constitution* of our Nation, I mean, when was it, or at what time, that we are to account that it was formed? Shall we lay it in *William*? I think not, because though he was called the Conquerour, he pretended a good title, and altered not the Foundation of our State, but only

only added some Laws, which any Prince in an orderly way may do. For *Canutus*, or the *Danes*, they did less as to any alteration of the Constitution then the *Norman*. As for *Egbert*, who I think it was that reduced the Heptarchy, he did I account but restore the ancient Monarchy, and though he changed the *name* into *England*, the Government in the *kind* none can suppose but the *same*. For the *Romans* they left us in a Monarchy, and found Princes here, and if we look beyond them, we must come up to those persons who at first in our Island resolved upon Government, and that they would have a King. *The Government of this Kingdom by a royal Sovereign hath been as ancient as History is, That usage so practiced* (says *Jenkins*) *makes a fundamental Law*. And here indeed does the prime constitution take his root: but who will say this is ours, or that ours is this? Who can tell us this first *British* agreement; and declare us the Instrument of it? If you will have it laid by *Egbert*, we are as much in ignorance also, what the Nation consented to when they came in entirely to him. If we had that perfect body of Law *Edward* the Confessor drew up, it might happily tell us something. But if then you descend below the time of the Conquerour to find our Constitution out, where shall it be placed? Will

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you have it lie in *Magna Charta*? That muſt not be, becauſe *Magna Charta*, and *charta de Foreſt* or the like, were the grants of our Kings, and the Conſtitution is that ſuppoſed Law of Laws and greater charter from whence the Prince himſelf holds his rights as the people their liberties, and muſt be therefore another matter. Shall we go then to the Statutes of the Realm? Nay, theſe are all Acts of the perſonal Sovereign, which ſuppoſe the Sovereign before, and conſequently they do not *give* the royal Power, or *make* the State, but they *declare* that Power. The *Lex* that *made* him is long agoe out of books, the *Lex* that *declares* him ſuppoſedly according to that *Lex* that made him, does as it ſeems, in two or three Acts (which are the lateſt, and therefore muſt ſtand, till contraried or reverſed) declare ſo much to *be* and ever to *have been* the *right* of the King (I mean the Militia acts cited) as no perſon can *take Arms* upon any pretence whatſoever againſt *him*, or on pretence of his *Authority* againſt ſuch as are *Commiſſionated by him*, without contradiction (I ſuppoſe) to that *declaration*, and conſequently the Conſtitution, as it ſtands now declared, is for the premiſes, and prays to have coſts.

It is time for me after this to come to the ſuppoſition on the contrary in the caſe propo-

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sed. Suppose the Lawyers should determine that the Sheriff were to be justified notwithstanding the Militia Acts. There is an harmony, or reason of Law in general, to wit of all the Laws together which concern the Government in its administration, which have a mutual habitude and relation as they consist with one another, that may be very near a definition of the Constitution in some mens apprehensions. The Sheriff in our Land according to his office hath the Authority for executing the Law in his County, and so may in the name of the King raise the force of it to that end. If the Militia now does so lie in the King, that he may command off those Forces and dispose them at his pleasure, then is his Authority frustrate, and insufficient to its end. Consequently that harmony, which I take it, they mean, by reason of Law, is broke, and the Law is made inconsistent with it self, because the office of the Sheriff, and the sole command of the Militia in the King, cannot both stand together (as it seems) in this point. I must confess moreover I am very tender in this matter. Here is a Position of taking Arms by the Kings Authority against his Person, and against those that are Commissionated by him, is to be abjured. It is not (I know) for serious persons to wallow any words in so solemn a thing as an

Oath without chewing, and much less to be willingly ignorant of what the considerate have against it, who in pondering the matter will I suppose see quickly, that *by the Kings Authority*, is all one as, *by the Law*: and when they are content perhaps to subscribe that they abhorr taking Arms in the name of the King, or upon pretence of the Law, against his *Person*, because the Law is conceived to preserve still his Sacred person inviolable, yet they may not be able to say so as to those *Commissionated* by *him*, because they conceive their Commission may be illegal and that the Kings Authority issued out according to *Law* is to be preferred before that which is issued out only by *Commission*. For my part I believe it could not be the intent of the Parliament as to the Major part, in these Oaths or Subscriptions, to advance the *personal command* or Commission of the King, above *Law*, I mean *in genere* to do so, which were to change the Government, from *Royal* or *Regal*, into *Lordly* or despotical. I shall offer it therefore as a matter of special verdict at the Bar of the most skilful in reason and Law, whether there be any case possible of *taking Arms* by the *Kings Authority* in his Commissions (Note, I speak only in the matter of Arms) can be put so, as that the *Authority of the Law*, may be said thereby to be *opposed*? If it may, the

the Case in conscience remains to be answered. But I question it, because the *Will* alone of the King in the whole business of the Militia (the *sole Power* thereof being *in him* by these Acts) as it seems, must be Law,, or equivalent with *Law*, when in all other cases, not of the Militia, the *Law* is certainly above, and more then his *single Will*, and consequently hath place of his *Commissions*. *Power* is a *right to command*; That *right* in any Subject, does lie only in the *Will* of the *Supreme*. Well, if the sole Power of Arms lies in the King, then must the Sheriff's *Power* to raise Arms in such and such cases he is authorized to, be nothing else but the Kings *Will* that he should do it. The Sheriff now raises Arms in his name, one comes and forbids him in his name, and shews his Commission. Here, is not the Sheriff gon, seeing the King is Master of his own Will, and can reverse it? If you say it is not his Will alone, but the Law that gives him his Power to act in the case, I ask, how then does the *sole Power* of the Arms lie in the *King*, when it seems that it is the *Law* he pleads for his taking Arms, which is not the *Kings Will* alone (or his *sole Will*, which he opposes,) but the Will and Act of his *Parliament* with him? I will come to a conclusion therefore, and leave the question. It is enough for me in the issue, if the *Conscience*

be *reſolved* as to a lawful ſubmitting to the injunction, though the *queſtion* be *unreſolved*. I ſay thus then, either the Sheriff is to be juſtified, or he is not. Let theſe determine that will and can. If he *be not*, then is all objection vaniſhed at the Militia Acts, the doubt and ſcruple is over, and we have done. If he *be* to be juſtified, then do I ſay that the Militia Acts muſt on neceſſity receive ſuch a conſtruction as that we are to conceive that the King and Parliament who paſſed them intended not to include any conſequences of ſuch a Nature as the *diſabling the Sheriff from executing the Law in the caſe ſuppoſed* would come to, when they thought only of preventing *illegal* practices in all Inſurrection and Rebellion. That is as much as to ſay, they intended to prevent any future War between King and Parliament, by declaring the *ſole Power of the Militia to be in the King*, but they never intended it ſhould be deſtructive in the leaſt (in any caſe ſuppoſed or to be ſuppoſed) to the good and wholſome Laws of the land, which do empower any Officers for the execution of law and juſtice, or preſervation of the liberties of the Kingdom. And if *this* be their meaning (which removes all that is grieveous) and we may ſo interpret them, then muſt they in the impoſing theſe *Oaths* and *Subſcriptions* mentioned be conſtrued alſo in the *ſame*, and

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no other *meaning*, and according to their meaning are they to be taken. I draw this up, either it *was* then their *meaning* by the repeated declaration of their Acts to exempt all cases of the Militia, even that of the Sheriff insisted on (supposing it put) from the dispose of any but the Kings personal Will: or it was *not* their meaning. If it *was their meaning*, then is *that* to be held for *Law*, and the Conscience hath nothing left to object in these Oaths or Subscriptions mentioned: If it be *not* their meaning, these Oaths and subscriptions must be taken (that is sworn, and subscribed) only according to their meaning, and so the difficulty is resolved.

I pass with this advertizement. There is a *strict*, scrupuled sense (*N. B.*) of the *impositions* of our Superiours, wherein if a man be *extreme to mark* every word or thing that can be thought or said according to the *rigour* of it, there is no *flesh living* able to *abide* any of them: or there is a *larger*, customary, allowed sense of such *words* or things, when not only those that conform to them do take them in the *same*, but those that are scrupuled at them do suppose and verily believe that the meaning of the Imposers was no more then they can currantly together with others yield unto. And in this construction I profess (where there is any such) both that the Conscience ought to lay down

her ſcruples, and all impoſitions that were, are, or ſhall be, muſt be taken. *Talis interpretatio in ambiguis eligenda eſt, ut evitetur inconveniens & abſurdum.* And *Exceſſivum omne* (ſays Sr. *Edward Coke*) *in jure, reprobatur.*

CHAP. V.

The Solution of an Objection, That Majeſtas imperij *and* Salus populi *may not be rendered inconſiſtent with one another.*

FOr the impugning the Doctrine of indefinite Subjection there are ſeveral things I know alledged, which might ſwell my Book more then is needful. Some inſtances (as of *David* and the *Macchabees*) are brought out of the Old Teſtament; and many things in reference to Religion have been ſaid in the late times. But foraſmuch as we have ſo much Scripture againſt *Reſiſtance* as there is in the New, and ſo many precepts there, of *Patience*, of *Suffering*, of *Faith*, of the *Croſs*: I ſhall commend theſe Texts enſuing, *Mat.* 5. 39. *Luk.* 6. 29. *Ro.* 12. 17. *Mat.* 5. 10, 11, 12. 2 *Cor.* 4. 17. *Ja.* 5. 10, *Heb.* 10. 32, 33, 34. *Heb.* 11. 35, 36, 37. *Mat.* 16. 24. *Mark* 8. 34, 35. *Heb.* 3. 1, 2, 3. *Phil.* 2. 6. 8. 1 *Pet.* 2. 18, 19, 20, 21, to the

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sciences of every sober Christian, as in the sight of God, and content my self with that of *Grotius* for this place. *Illa quæstio gravior, an quantum* Davidi, *an quantum* Machabæis *licuit, liceat & Christianis, quorum Magister crucem subire toties jubens, exactiorem patientiam videtur requirere. Certe ubi Superiores ob religionem mortem intentant Christianis, Christus fugam concedit, ultra fugam nihil.*

And unto this Dr. *Hammond* in his papers between him and Mr. *Marshal* gives his suffrage. But there is an Objection of an higher moment, wherein I see not that they come off so easily; An objection of another Topick then from Example, which indeed enters the very Nature and End of Government it self, and cannot be waved with faithfulness to this cause. It is this. If there be such a Power attributed to Princes, then may they not only oppress any of their *particular* Subjects according to their unbrideled Wills, but they may take such courses as are destructive to the *whole*, and if we may not then take Arms against them, there shall be more care had for the *Means*, that is the Governours, then for the *End* (unto which they are Ministers,) the common good and safety of the people.

I must acknowledg, I am encouraged to venture on this Objection by the learned Pri-

mate *Usher* in his Book of the Power of Princes, or else I should be startled, when I find those two great Champions for the same Power, *Barclay* and *Grotius* at a stand here. Barclaius *ait amitti Regnum si Rex vero hostili animo in totius populi exitium feratur. Quod concedo, consistere enim simul non possunt voluntas imperandi, & voluntas perdendi.* Grotius De jur. Bel. l. 1. c. 4. What then does he say if he yield this? Why in *Rege mentis compote, vix videtur id accidere posse.* To frame such a case then, under this double circumstance, that it must be *animo perdendi*, and in *exitium totius* is not to be conceived a thing in the World ever likely to be, and so not to come into the thought, to stumble any on that account. *Quid ergo? Nulline casus incidere possunt* (says *Barclay*) *quibus populo in Regem arma capere jure suo liceat? Nulli certè quamdiu Rex manet. Duos autem casus invenio quibus Rex ex rege non Regem se facit.* Adversus Mon. l. 3. c. 16. In such a case as this then (and he *instances* in *Nero* and *Caligula*) a King ceases to be King with him. Nevertheless I shall not so leave the Objection, nor yet trust too much to the notion of the prince being Unking'd in this case, seeing if he willingly prosecute those ways which will ruine the Commonwealth, whatsoever his mind, purpose or intention be in it, as

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we cannot tell, ſo it were little odds as to the main. I anſwer therefore in the firſt place from Scripture, the Apoſtle hath ſet down our duty which is Subjection indefinitely, and we are not to break Gods command for earthly advantage, but we muſt do our duty, that is perform his command, and leave the iſſue to him, who can turn all things to the beſt. *We muſt not do evil that good may come of it.* And muſt we not do good, though evil ſucceeds? We are to be *ſubject* not only for *Wrath* but *Conſcience* ſake; If we reſiſt, we reſiſt the ordinance of God, that is, we do not only break his precept, but as I muſt inculcate, we would not in effect have him to be the Orderer of things, we would dethrone him of his providence, and be our ſelves in his room. Now when there is ſuch evil as this at the root, how can we think that the *poſſibility* of the *evil of miſery*, can warrant us the *evil of ſin?* In the next place, as to the reaſon of the thing, I ſhall offer this conſideration. To wit, As there is no miſchief can befal a *private perſon*, that can ſtand in competition with the ſafety of the Commonwealth, or the *whole Government* it ſelf, that for the prevention thereof, this ſhould be endangered: So is there no miſcheif or ruine on *one* whole Government but it muſt give place to the ſafety of *all*. I pray weigh it,

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Upon the truth of this proposition, *Quod nulla ex causa* (in *Arminius*'s words) *subditis fas sit contra legitimum principem arma sumere*, does the safety of not *one*, but *all* the Governments upon Earth depend: and there is no *mischief* from the ill courses of any Prince, but is to be held better then such an *inconvenience* as the infrindgment of the verity of this Doctrine is, which were a Womb of far greater and ampler evils. *If there be any case wherein a Subject may take Arms* (says Dr. *Taylor*) *there may be some other like it, and who shall be judg hereof?* If we our selves be judges, Lo what a gap is opened to Disorder, Warrs, Ruine, ruine of all, ruine with out end. It is true our doctrine dos provide for the security of Governers, even when the comon good is accidentally left open to oppression: yet in regard it is the concern not of one Government but all, and many Governours are good, the most but indifferently bad, and none at the worst so bad, but it is better, or more conducive to the common good, that we should have *such* as they are, rather then *none* at all, the security at root is not greater for the *Means* then the *End*.

And now I pray let this I have spoken so royally, have its due grains of understanding. When I plead for subjection to Governours, I plead for them as *αι ἔξουσιαι*, as *the Powers*

wers that are, which comprehends the *Constitution* whereby they Govern with their *Persons*; ἔσω I say chiefly, and ἐξωθεν as from δύναμις distinguished. The Constitution of Nations hath provided for the good of the Community, or the Community, hath provided for the good of themselves (that is the publick) in their Constitution; τὸ τῶ μὴ σμήνει συμφέρον οὐδὲ τῆ μελίσση συμφέρει *What is not profitable to the Bee-hive, is not profitable to the Bee*, says *Antoninus*. *Potest, quod inutile Reipublicæ sit, id cuiquam civi utile esse?* says *Cicero* accordingly in his Book *De Officijs* often. If Rulers rule not according to their Constitution, they are not the Powers that be (not ἔσω ἐξουσίαι,) for *the Powers that be*, are the the Powers so constituted. Those persons who get into Rule without the *title* which is required to the Ruler in the *Constitution*, may not be held the *Powers that be*, upon the same account. Indeed the Ordinance or Will of God is a complex thing, which contains more then one matter in it; It contains in it that there shall be a *Government* and Subjection, and that those that rule should be *rightful* and *right* Governours, to wit, that they should have a *due* title, and act *duely*, according to the *Constitution*. But if any shall *not* have a right title, I dare not say that this Will is (as to us) there should then be no *subjection* For this

Will

Will of God objectively taken being an *aggregate* thing, some of the things it contains in it must be *greater* and some *less*, and God Almighty we are to know (and then suppose) does *Majus & Minus velle*, according to the condition of the things he would *have*, or *wills*. It is a greater matter now (or a matter of far greater concern) that there be Government, then that the Governour have a right title, and the greater matter then in the case I judg must take place of the less. The resolution of this will draw in its fellow. If a Prince hath a right title, but acts in some things contrary to the Constitution, those acts of his are to be esteemed indeed without *Power*, and if the Subject does not obey him in them he *resists not the Power*, which *Hooker* may tell us clearly, if he tell us no more: But when the Subject may *forbear to act*, he may not *resist*; As the word in the original is opposed to *Subjection*, undoubtedly he may not. The Subject is here to be *restive* (if I may so speak,) not *resistive*, I mean it as the people in the case of *Jonathan* was, they would not act, which was the right course they were to take, when they were never the less under due Subjection unto *Saul* for that. The reason for this is the same here as before. The right the Prince hath to the Government is a greater thing then the right to such or such a particular act. When I do

do then not obey him in such an act or thing unto which he has no right, upon the ground (which he perhaps may plead for my doing, to wit) of being subject to the *Power that is*, I may not take Arms and rise against him for that act (or for the imposing of that, or any such act,) because the right (I say) he hath to the ruling Power in general being a greater thing then this, I must give way in the less for Gods *Ordinance* sake. I return to what I was saying. The command of God does bind us to the Powers *that be*. The Powers thus and thus constituted are *the Powers that be*. We must make no more, nor no less of it then the Apostle. Whatsoever be the *Powers* then, whether *limited* or *unlimited*, *arbitrary* or *regal*, *conditional* or *absolute*, the inconveniencies that may arise upon the Subject thereby, will not dissolve their Allegiance, so long as they are *the Powers that be*, according to the Constitution. Thus much I must declare and acknowledg once for all, that the Word of God meddles not with the bounds and limits of the Sovereign Power in any States or Kingdoms, but taking them as it finds them, it requires *Subjection to the Power that is*. *Chemnitius* from *Luther* hath turned this into an Axiom. *Evangelium non obolet Politiis.*

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Not but indeed there are diversities of Powers (or States) which must be considered according to their several conditions. The Magdeburgenses who were men of great learning and pains are noted for this opinion. *Imperatores & Reges esse primarios vassallos imperij & Regni, & proinde si feloniam contra imperium aut Regnum committant feudo privari, perinde ut alios vassallos.* The ground hereof I take it is laid in the nature of other States which are diverse from ours; and we may see, the Empire being the chiefest State of any perhaps with these persons, how they judg of other States thereby, when the *German* Empire is not an *absolute* Monarchy, it is prov'd out of *Bodin* at large, and granted by others. When *Luther* agreeably had taught that the Magistrate should not be resisted, and some Lawyers proved to him that the Laws of the Empire permitted resistance, he then held they might make a League to defend themselves. *Sleidan. Lib.* 8. The reason of this satisfaction, was, because *the Gospel* (said he before *Chemnitius*) *abolisheth not the Laws of any Commonwealth.* Under this fit construction, what *Pareus* hath wrote upon the *Romans* may find its favourable allowance: whose careful Son excuses his pious Father, that what he had said of a *pactionary* State or Government, ought not to have been drawn unto an

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absolute. And to this effect it will not be hard I suppose, to find Divines of the *Germane* States speaking as *Zwinglius* (quoted to me by him who shall next be named,) *When Kings rule unfaithfully they may be deposed.* Which we need not wonder at, when that eminent Prelate *Bilson* in his Book *of the true difference between Christian Subjection and Unchristian Rebellion*, wherein he does so stoutly defend the Authority of the Prince against the Pope, and all private Rebellion, he does yet (as it seems out of conviction) express himself with care, yet very plainly. *There may fall extremities* (says he, speaking of *Chilperick* deposed for impiety) *wherein Princes are not able to guide themselves, and much less their Realms*, p. 428. Again, defending the Protestants in their stirrs in *Germany*, *Flanders*, *France*, and *Scotland*, *I will not* (says he) *pronounce all that resist Rebels. Cases may fall out even in Christian Kingdoms where the people may plead their right against the Prince and not be charged with Rebellion.* I pray let us hear those cases. *If a Prince should go about to subject his Kingdom to a forreign Realm, or change the form of a Commonwealth from Empery to tyranny, or neglect the Laws established by common consent of Prince and People to execute his own pleasure: In these and other cases that might be named, If the Nobles and Commons*

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joyn together to defend the ancient and accustomed Liberty, Regiment, and Laws, they may not be accounted Rebells, p. 520. In short, the Pope may not meddle, but the whole Realm may defend their rights by Arms against Princes. Let us have his Foundation. *I denyed that Bishops had Authority to prescribe conditions to Kings when they Crowned them, but I never denyed that the people might preserve the Foundation Freedome, and Form of their Commonwealth, which they fore-prized when they first consented to have a King*, p. 521. Here I will joyn issue with him, according to what we have had before. While a people are yet in *forming* their Government, *singular* persons (as well the *Eminenter* as *Formaliter Cives*) must be subject to he *universal*; In the *universal* then (when States arise thus, at least while they are rising) does lie a *real* Sovereignty, whose *rights* are to agree upon what *form* of Government the *Community* thinks best, and to appoint the *Manner* (to borrow that comprehensive phrase of *Samuel*) of their *personal* Sovereign, as hath been before. If they be so cautious now as not to consent (which *consent* is *causa sine qua non*, or necessary *condition*, not *efficient* of Power) to be governed but upon terms, and their Governours shall be accountable upon Mal-administration, ordering some Officer

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(deriving from them) to that purpose, who can gainsay, but the case is all one as when *Princeps* and *subditi* are obliged *ex contractu*? *Arnisæus* will hold *Rex pactionatus ubi pactum non servat deponi potest. De jur. Ma. l. 1 c. 6.* Upon this account what *Luther*, *Zuinglius*, and the *Magdeburgenses* say, is as good as what is said by *Bilson*. But here then does lie the question, whether there were indeed any such terms *fore-prized* (to use that *most Reverends* own words) in the *constituting* our Commonwealth of *England*, that the Prince should be called to account by the Sword in any case whatsoever? That the people have their *rights* is out of question, why else is the King Sworn when he is Crowned? The sum of which comes to this, that they shall be Governed only according to Law. But whether this be *one* of their *rights* that they may *take Arms* against the Prince if *wronged*, is, *id quod restat probandum*, I read indeed in our Chronicles in King *John*'s time and *Henry* the third's, what a stirr the Barons kept for their rights in those Warrs, but though I think the *Subject* is beholden to them for the *Effect*, I do not know how to justifie them in their *Cause*. If any shall say *Bilson* does hold indeed that the whole people may defend their liberties when a Prince goes about to destroy them, and so

take Arms, but he says not they may take Arms against the *King*, his *Person*, *Authority*, *Government*, or *Laws*: Let him that will so distinguish, make me that difference clear and sound, I shall honour *Bilson*, and thank him, and come to this end with both: That it is possible for some Doctrine to be good (at least well-accepted) under Queen *Elizabeth*, which was hardly approved by King *James*, became dangerous under King *Charles* and is now razed by Acts of the late Parliament under his Son.

There is indeed one question lies at the heart of all, and that is, whether the *whole* people, or their *Sovereign* be greater? Which question if it may not be baulk'd, I dispatch thus. Distinguish we of the people as a *Community*, or as a *Commonwealth*; and of the greater, *quoad finem*, and *quoad authoritatem*. That the whole people, *as a Commonwealth*, are greater then the Magistrate, *quoad finem*, I think manifest, because he is appointed for their *Weal*. But that the people, as a Commonwealth, are greater *quoad authoritatem*, I suppose it so farr from truth that the people as they are under a Commonwealth have indeed no Power at all. The whole Power of the Commonwealth (*quâ* Commonwealth) lies in the Sovereign, who is the *pars imperans*, and the people

people *pars subdita* only. Nevertheless take the people as a *Community* it must be acknowledged that the original Grant or Charter from God is conveyed immediately to them, and the Power of their Magistrate comes from that Charter. Consequently, if there happens any such case as that by the act of God or Man, the Commonwealth comes to a dissolution, so that the *Prince* and *Subject* (to make something of *Barclay*) does indeed *cease*, then may the *Universality* challenge (if they will) the greatest authority, and take Arms for their defence against any that shall go to oppress them: But while the Legal Constitution, and *Order* of *Prince* and *People* abides, this Doctrine of *Subjection* (and that indefinite) must hold good even against the *whole* Body. *Quando agitur de principe supremo non habente Superiorem, non potest ullo modo occidi a subditis, etiam si tyrannice vixerit. Tholosanus de Rep. l. 26: c. 6. Quamdiu Rex est* (says *Barclay*) *Superior semper populo est, alioqui Rex non esset, & superiorem ab inferiore judicari posse, contra rationem est, contraq; naturam.* Against him *there is no rising up*, says a greater Authority.

CHAP. VI.

The general Caſe or Caſes of Conformity, which reſpect the Church as well as civil Obedience, propoſed and weighed with candour and indifferency, that the rigid of thoſe that Conform not may not cenſure others that have Conformed, and thoſe that are willing to Conform, and are able, may have peace in it.

THere are two parts of this Diſcourſe intended in the Title, The one of Loyalty againſt Reſiſtance, which is diſpatched: The other of Obedience for Conformity or Compliance with the preſent Eſtabliſhment, ſo farr I could wiſh really as may poſſibly be without offending their Conſciences, to all whatſoever. There is a State-Conforming, and a Church-conforming; The Act of Uniformity, and the *Oxford* Act, with other Acts. A Conformiſt to the State may be a Non-conformiſt. The Non-conformiſt is not all one with the Refractory. A Chriſtian muſt conform to *God*, and to his Ordinance, *the Powers that are*, when he cannot conform (in every thing at leaſt) to the *Church*, and will not to the *World*.

As for Eccleſiaſtical Conformity, all are not alike eaſie. There was a time the Nation had the overture of a Concord between the ſober of two parties, and lo, in ſtead of that compoſition (which muſt ſtill be implored as equal) a ſtreight injunction of *aſſent* and *conſent* to all things New and Old, or one of them muſt put up and be gone. How can thoſe here whoſe judgments are perhaps, and have been for Moderation in times before, as now, come over thus to one party altogether on ſuch terms? This hath moved ſome to no good Will. Again, It is God rules mens inclinations; They whoſe converſations ſhow them moſt faithful, whoſe Zeal to the life and power of Holineſs is moſt ſerions, whoſe faces are toward *Zion*, have ordinarily no heart here, they go another way. This enters into many a mans Soul. Moreover, There are ſtrange things in the Revelations, the riſe of two *Beaſts*, whereof the one ſeems to be the Power Eccleſiaſtical; and there is a *Babylon* ſpoken of, *out* of which we are to *come*. I would to God we were ſure what this *Babylon* and *Beaſt* are, that we could know where to be ſafe. I am ſure our Proteſtant Divines have ſpoken ſo ſeriouſly of theſe things that they have frighted our people of this Nation ſo far from Popery, that we have run almoſt out of our Wits, and can't tell yet when

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we are farr enough, leaſt we be ſtill in *Babylon*, and the *Beaſt have* us. Such a Conſtitution of things, as, whether by *Romiſh* Idolatry, or other way of external Worſhip or *form* of Religion, undermines and perſecutes the Life, *Power*, and Spirituality of it, is the *Beaſt*, *Babylon*, and *Antichriſt* for ought ſome know. And conſequently there may be a great difference to ſuch, between joyning with the Biſhops, *Cranmer*, *Ridly*, *Latimer*, *Hooper*, in thoſe things they impoſed then, when they were coming out of *Babylon*, and conforming to them now when their faces ſeem to be towards it. What? Toward Popery? No, perhaps they believe no ſuch matter, but to ſuch a way of Diſcipline and Worſhip, as carrying a countenance of either, but being rather only a kind of Idols thereof, by the ſhew pomp and formality of theſe things they indeed contain not in them, the Life, Power, and Efficacy of both, is undermined and loſt. This where it lights ſinks in deepeſt. Nevertheleſs in regard our dwellings in fleſh are dark; and Pride and Superſtition are two cloſe ſins; we cannot tell but Separation may be the Child of one of thoſe two Mothers. For as there is a placing *Religion* in thoſe things wherein there is none, that is Superſtition on one hand: So is there a placing *Evil* and dan-

ger in thoſe things wherein there is none, that is Superſtition on the other: more weak, and perhaps more pernicious, as more againſt the goodneſs of God, and the converſation of Mankind one with another. I am you ſee impartial, God knows the truth on both ſides. But were it not for theſe ſecret, deep impreſſions upon the hearts of good Men, that we can't tell what they be (unleſs *aliquid ἀνάθεμα*,) more then the objections only in their mouths and pens, the buſineſs of *Conformity* and *Grace* might come to farther parley.

To cary on this task then, there are three things that require our diſtinction and due conſideration. The matter of Conformity, or the *matters* themſelves impoſed. The *forms* of Words, *Compoſure*, or manner wherein thoſe matters are drawn up into ſuch and ſuch impoſitions. The *ſcandal* from without, unto which the tender Chriſtian is to have ſuch regard that what is lawful in its ſelf, may not yet be done by him with ſin to another.

For the middlemoſt of theſe (to begin there as moſt commodious to the reſt) I muſt needs enter this pre-admonition, that I cannot but think it a reaſonable thing that thoſe who prepare ſuch doſes as are enjoyned in late Acts, for others, ſhould conſult with the Stomach of the Patients, to wrap them up in ſuch expreſ-

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ſions, as would go down beſt with them. There are the *Compilers* therefore of theſe Pills, and the *Takers*. I diſtinguiſh the parts of theſe in the point of their juſtification. For the *Compilers* I ſay nothing, For the *Taker*, I apprehend, he is to look to the ſence and import of what is preſcribed, and if he be ſatisfied in that, he is to impute the form and words to the Compiler, and not charge their overſights to the guilt of his Soul.

It is true, the interpretation of an Oath (ſay Caſuiſts) is *ſtricti juris*; and we are to think no otherwiſe of every ſolemn Declaration impoſed in our Acts: Nevertheleſs, as there are certain reſtrictions allowed to the obligation of an Oath it ſelf, ſuch as *Quantum poſſibile*, *Quoad licet*, *Rebus ſic ſtantibus*, when taken: So in the taking, and conſequently in all theſe injunctions, there are ſome conditions that are common to all Words and Speeches, neceſſary to be underſtood and granted, or elſe there is nothing can be ſpoken, promiſed, or ſworn by any man, that he can aſſent unto, but what is ſpoken, promiſed or ſworn to, in his own Words. Such a common condition now, I ſuppoſe this, that whatſoever is declared promiſed or ſworn in theſe matters, as in all things in the World beſides, the words muſt have an *Equal interpretation*. There is the very *letter*

ter, and there is the *meaning* of Laws, and so of these impositions. The meaning is the mind of the Lawgiver or the imposer. His Will is the Law, and his Meaning is his Will. In the general then we must take up here, That whatsoever the form of words be, wherein any matter is enjoyned, those that submit to that matter, must take it in the supposed sense of the King and Parliament who passed the same according to their declared words, receiving and bearing an equal interpretation.

Indeed the sense of a Parliament being not single, yet the declared words not varying, there is a latitude must go to an *Equal* meaning; Neither is it material what two or three or more of the harder-grained aimed at in passing an injunction, for so long as a man is to take it only in that sense which he verily believes was intended by the Major part, there is nothing but what is candid, or at least nothing that is unreasonable is to be attributed to it. If you say the Major part do differ in their meaning, and so we cannot go by the meaning of the Major part, you may cavil as well, the Parliament have no meaning at all to go by, because they have not all one meaning. I answer that *that* meaning wherein more do agree then in any other, is to be judged the Major parts meaning, and that, that is lyable

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to no more difficulty to go by, then if the Law-giver (who is not actually to be conſulted) was but one perſon.

This interpretation yet farther which is *equal* muſt be left in its deciſion to the Conſcience of every ſingle perſon, as it is in the caſe of Scripture. Not to put what ſenſe on the injunction he will, or can, as if a man might uſe his Wit here, as his Weapon, to defend his living: but to judg what was indeed the Impoſers meaning; Neither wronging them in ſtraining their words to any harſh or injurious Conſtruction, nor giving himſelf liberty to ſerve his turn of the moſt reaſonable, which he believes not they intended. Every man is to judg what is the Holy Ghoſt's meaning in this or that text, and from that he may not recede, without ſin, in his actions. Upon this account are the Scriptures *not* of *private interpretation* (*N. B.*) when yet we are ſtill bound in the practice of them to a judgment of private diſcretion. We muſt hold the ſame of all Laws, and theſe Impoſitions.

As for the Mediums, whereby we gather the mind of the Impoſers, they are various, ſome taking the common ſenſe of the Many, ſome the ſenſe of the Impartial and Wiſe, ſome the judgment of the Law, ſome the declaration only of themſelves to be the ſenſe of the words

words imposed. But let the Mediums be what they will, whereby a man comes to the resolution of his belief of the Imposers meaning, when he is once brought to a setled perswasion and conviction, that this or that and no other was their meaning, if he can submit to the words in the full latitude of that meaning as he is fully perswaded in his Conscience is all they intended in such or such an injunction then is he free to his own determination.

There is a *strict*, or *allowed* sense of words therefore, I said in one Chapter before; I will say it over here more fully. There is a sense which a man is perswaded in his Conscience if he should ask the Imposers they would allow, as what in these things was their meaning: and there is a sense they would not allow him. A Christian, I apprehend, is to take the injunctions of his Superiours in the sense he believes they allow him. If he makes such scruples and yields himself to them, which his Conscience tells him the sense which they allow him does satisfie, he wrongs them and trespasses on the fifth Commandment. If he on the other side receives their injunctions without any regard at all of their sense, or in such or such a sense which his Conscience tells him is larger then they allow him, he is profane in his Conscience, and sins in the matter against God.

God. There is a Court then is ſetup for every one in his own Breaſt, Let him go to his Conſcience and ask what think I really, as in the preſence of God, if I could ask the Impoſers of theſe things whether it is their Will that he ſhould be of another mind in theſe particulars that croſs his aſſent, or leave his ſtation? If his Conſcience tells him it is verily perſwaded it was their intention in the injunction, he is to honour God in his patient ſuffering their pleaſure. But if he is perſwaded in his Soul that this is utterly againſt their wills (and was) and that the things he ſcruples at, or as he ſcruples them, never came into their minds unles to admit them, only they paſſed them in the groſs, never intending that they ſhould put a barr in Conſcience unto any, and if he could ask them, he believes they would certainly allow him in them, Here he is (I ſuppoſe) to put ſuch a ſenſe or meaning then upon the injunction, as may be favourable to his ſcruples, and yield it his ſubmiſſion. *Leges ſatis habent id quod plerunq; accidit reſpicere* (ſaid *Theophraſtus*,) *quæ autem rarius contingunt, communibus tamen regulis conſtringenda ſunt, quia etſi ratio legis in iſto ſpeciali facto ſpecialiter locum non habeat, maneat tamen ratio in ſua generalitate, cui ſpecialia ſubjici fas eſt.* They that pleaſe may read *Suarez de Legibus* l. 6.

l. 6. c. 1. For my part though I could use more words, I see no cause to alter any thing for my reading of him.

For the Matter it self of Conformity, the chief stumbling Stones may be reduced to these heads. The renunciation of the Covenant. Approbation of the Liturgy. Episcopal Orders.

The last is the threshold to Conforming, and there is a first and second discourse abroad about *Re-ordination*, which as the Authors of the *Grand Case* and *Peace Offering* referred their Readers to, for satisfaction: So the deceased Bishop *Worth* once told me he had actually himself satisfied all he met with in *Ireland* but three *Scots* with the arguments of the first of those Books. For my own part, I dispair really of proving any *uncommon* thing ever by Scripture if *re-ordaining* as to the *work* of a *new charge* is not exemplified in the instances that are pressed in those Papers: and I must yet say freely, I am satisfied that the repetition of Orders upon the said account is lawful, when I cannot methinks be satisfied with it upon any account else for my life, for this slippery *Ice* after tryal no where else will *bear*. Let a man produce St. *Paul*, the eleven Disciples and *Barnabas* receiving commission more then once, they will say this is still εἰς τὸ ἔργον.

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Be that exception then provided against, and forasmuch as this is the general case (for it is to a *new charge* if any now be ordained) let a man declare him self freely to the Bishop and others (those especially that have to do with him in it) that there is this account he has (whatsoever satisfaction he hath besides) upon which he can do it, and there is no scruple that I know otherwise, but he may find his ease for it (if he take heed) in that *second*, of those Discourses. In short, There is *Re-ordination ad Officium*, or *ad Exercitium particulare*. Though the one of these be condemned by Divines generally, Ancient and Modern, School-men, Councels, and Fathers: the other is justifiable and justified (as I remember) by *Mason* and as good Divines as any we have. And this expedient I will commend from the practice of the Primitive times. *Justin* Martyr in his questions and responses (if his) the Orthodox (*Quest.* 14) asking why the Church did not Baptize, and ordain the Hereticks again, whose Baptism or Orders before was faulty, thus answers. Τοῦ αἱρετικοῦ ἐπὶ τὴν ὀρθοδοξίαν ἐρχομένου τὸ σφάλμα διορθοῦται, τῆς μὲν κακοδοξίας, τῇ μεταθέσει τοῦ φρονήματος· τοῦ δὲ βαπτίσματος, τῇ ἐπιχρίσει τοῦ ἁγίου μύρου· τῆς δὲ χειροτονίας τῇ χειροθεσίᾳ. That is, *The error of the Heretick who becomes Orthodox is thus amended. The error of his Opinion by the change of his mind; the error of his Bap-*

Baptiſm by the annointing of the Holy Chriſm; the error of his Ordination by the Impoſition of hands.

The next thing is the Renunciation of the Covenant; And here it is not for any to deceive themſelves and think that leſs then this was intended in the Subſcription of the Act of Uniformity, the Oath of the *Oxford* Act, and the like Declarations. They that took the Covenant ſwore they would in their place *endeavour* the *extirpation of Prelacy*, that is the change of Church-government, when in theſe late Acts they are required to declare, ſubſcribe, and ſwear the direct contrary, that they will *not endeavour any alteration of Government* in Church or State, and that there lies *no obligation* on me then from the Covenant ſo to do. This is a manifeſt renouncing of it, and to be juſtified too only upon the account that this particular matter covenanted (at leaſt according as it was covenanted) was unlawful, and ſo is it likewiſe expreſſed in the Subſcription. In an Oath then (that every one may ſee before him what he does) there are two things to be diſtinguiſhed, the *Actus jurandi*, and the *Res jurata*; The *act of Swearing*, and the *thing Sworn*; The *Covenanting*, and the *matter Covenanted*. It is not enough that the *actus jurandi*, the act of Swearing or Covenanting

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was unlawful, to make an Oath to be said *unlawful in it self*, so as upon that account to be renounced, unless the *Res jurata*, the thing Sworn, or matter Covenanted, be found so too. This matter Covenanted, what it was, we see: And the alteration of Episcopacy as now established which is that matter, may be considered then, either *Simply* and *Precisely*, without regard to the Covenant it self or them that Covenanted, and so we are not to suppose this matter *in se* to be unlawful (in favour to the concerned) but that it lies at the pleasure of the Power which is Supreme, directed by the word of God: or else this matter Covenanted may be considered *Relatively* and *Complexly*, as incarnated in the Covenant, and with regard to the persons that took the same, in their capacity of acting, and way of prosecution, and this *Res jurata* as to them who were in no capacity political, and acting not in order to the Will of the Supreme, but by force, and against his Will, must be unlawful and as against the Ordinance of God may be renounced.

To pursue this a little as clearly and honestly as I can. Whatsoever Government (to keep on my ground at first laid) it pleases God that men upon reasons seeming best to them do set up in any Nation and comes to be establi-

shed, it is to be look'd on as set up by the providence of God, and so his Ordinance according to our Apostle, upon which the command of Subjection falling in immediately it is not for any single man, or party, to endeavour the disanulling of it. There is a Resistance of the *Governours that are*, which we understand easily, and there is a resistance of the *Government that is*, and that I take to be in the highest degree an endeavour it be *not*, and in the lower, an endeavour it be *otherwise* then it is; which consequently being unlawful, we must distinguish of the Constitution of a Government, and the Administration. Alterations in the *administration* of Government, are made we know ordinarily in repealing Old, and making New Statutes: But the fundamental *Constitution* whereby and according to which they are made, remains standing as the settled Ordinance of Gods Providence in the Nation. Now the way of any alteration according to the Constitution of our Government, is not forgotten, in the first Chapter to be premised; It must be by the King and Parliament, which being chosen by the people, the people thereby in their Representatives do concurr to these alterations. A thing we are to know so true that there are no Laws that pass, but in this sense are said to be *Quas vulgus Elegerit*. All

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the Commons in the Realm are represented in Parliament by the Knights and Burgesses says Sr. *Edward Coke Inst.* part 4. p. 158. And are called *tout le comminaltie de la terre illoeq; Summones* in the preface of *Westminster* the first. *Every* English *man is intended to be there present either in person or by procuration, and the consent of the Parliament is taken to be every mans consent*, says Sr. *Thomas Smith*, l. 2. c. 2. Nay while the King *consilio & assensu* Baronum *leges olim imposuit universo Regno consentire inferior quisq; visus est in persona Domini sui capitalis, prout hodie per procuratores comitatus* says Sr. *Henry Spelman*. There is a Uniform kind of Endeavour therefore after the common good, wherein every man that hath a vote in chooſing Burgesses, may be looked on, though *private* persons, in a sense, to act in a capacity that is *political* or publick, so long as it is in order only to a Parliamentary proceeding in subordination to the highest Authority; when if he shall act out of that way, not in order thereunto, such an acting cannot come under the score of a capacity *political*, but *private*, being against the Constitution, which is the Publick (or the thing wherein the *Res publica* or *populi* does mainly lie,) and consequently against the Ordination of God.

There are two suppositions upon this that

are contrary, yet have both some truth in them, and must be set at rights. The one is, that it is the duty of every one to endeavour the reformation of the Church as highly pleasing unto God; which when some words of caution and tenderness were put in for the avoiding Sedition and breach of Peace, such as *in their place and calling* be, it is no wonder if the hearts of a great many of the most serious in the Land were won by so good an End and tender Words, so as to enter into a Covenant for the *extirpation of Prelacy* in order to it. The other is, that the business of Reformation which includes an *altering* of the present *Government*, does belong to the Power which is Supreme, and for any to go about it in a way that was, or is not in order to the consent of the King, in and together with his Parliament, is so far from being his duty, that it is a thing contrary to subjection, that opposes Gods Ordination, that will not be content that Gods Will should stand, but would have the Powers that are to be otherwise then they are, and so entring into Gods Seat, as if a man could order things better then God does, as hath been spoken.

To the former supposition then I answer, there was two things put together that could not stand together, taking the Covenant truly

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as it ought, in its complex conſideration. To wit, An endeavour to *alter the Government*, and according to every man's *place and calling*. It is indeed according to the place and calling of the Supreme Magiſtrate, of the King and Parliament to endeavour reformation of the Church and State as there is need. And it is according to the place and calling of private perſons to deſire and ſeek the ſame to be done by them. They may chooſe their Burgeſſes, Petition them, Adviſe with them, and Pray to God for them to that End: But to deſire or ſeek it, and much more to ſwear to endeavour a change in the Adminiſtration of the Church (even ſo far as the extirpation of the perſons therein governing) in a way that was not to proceed *politically*, by the act of the *Supreme* (for whether the Supreme Power lies in the King, or in the King and his two Houſes joyntly as one, nothing could paſs while he was divided from them) is not according to our *place* nor *calling*. So that the ſaying I will *endeavour* it, but *according to my place and calling*, was an inconſiſtency in the Lenitive, with the matter undertaken.

To the latter ſuppoſition I diſtinguiſh. There is an Endeavour of Reformation (or of altering what is convenient in the Government) that

is consistent with the Constitution, to wit by the way of Parliament with consent of the King, which appears to be lawful before God and man, and that must therefore be maintained and held: when there is an Endeavour, Not in this way, and so not consisting with the Constitution, which (let it be in what way else it will) is pleaded to be *Resistance*, forbidden of God and men, and consequently liable to be quitted or renounced. In our late Acts when a man is put to profess, subscribe, or swear that he will not *endeavour any alteration of Government*, he is not to conceive that it is intended he should bind himself to lay down his subjection to the Laws, and much less to the Constitution it self of our Nation, which provides for the former Endeavour, so that if a Parliament be called, he is to act in their Choice, and consequently *Endeavour* in his place (for there he has place) the promoting the common good according to the constant practice of the Realm: But he is to conceive that he renounces the latter *Endeavour*, that is that endeavour which was carried on in the late times (unto which no doubt but these Acts have their respect) in a way not allowed by the Constitution, and consequently against Gods Ordination, where the unlawfulness of the War and Cove-

nant by me is placed. To wit, the Constitution of our Land is such, that whatsoever alterations of Government there be (which as to the Administration may, and are fit sometimes to be,) they must be made only by the King and Parliament; and Here was an endeavour of alteration by the Parliament without the King, and against him; An endeavour by Arms to force the King to consent, in stead of that free joynt and mutual consent in Parliament, the endeavour whereof alone it is, that our Constitution allows. And if the other be not allowed, we see how the late Parliament-cause may be relinquish'd, when yet all lawful endeavour for the publick good either of Church or State is upheld. There was the *End* of that cause let me say, and the *Means*. The Means were covenanting without the King, and War against him. The End was Reformation. The Means I apprehend appears lyable to renunciation, when the End is still by other means (that is according to the way our Constitution provides) to be sought. To conclude, The Impositions that are, must be taken in the sense of the Imposers I have said before. In these late Acts, when the Parliament do require that a man should renounce all obligation from the Covenant of *Endeavouring any alteration in Church or State*, their sense

is plainly he should not do as they did formerly; that is, their meaning lies certainly in opposition to former proceedings, to *what of late hath been practised*, to use their own words before cited in the Militia Acts. He is to renounce all Endeavour which is *Resistance*, forbidden by the Apostle: but he renounces not not any Endeavour which is *Subjection* to the ordination of God in the Nation.

I will confirm this, with one only clear reason. The great thing intended by the renunciation of the Covenant in our late Acts, is the preservation of the Government in the present Constitution against all alteration. But the Constitution of our Government being such in the fonndation that whatsoever is needful or convenient to be altered, may be proposed to that End in Parliament: to take away that which is universally radicated in the whole Nation in order thereunto, were a piece of the greatest alteration that could be, and consequently never to be understood as intended by the Parliament.

After this, it may be said haply, This determination were well, if it were Authorized: but how shall we turn universals into particulars without Authority? I answer, *He that ploweth plows in hope*, and I am not one out of hope but that these injunctions may yet come

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in due time under some revisory Explanation; and then may what I write (I mean the Contents) become serviceable. In the interim, There is a concent of Reason to be understood in the Laws one with another, and of all with the Constitution, and Reason of Law is my Authority. It is a general rule allowed by all Laws (says my Lord *Coke*) in the construction of Statutes. *Quamvis Lex generaliter loquitur, restringenda tamen est, ut cessante ratione, & ipsa cesset; Cum enim ratio sit anima vigorq; ipsius Legis, non videtur Legislator id sensisse quod ratione careat, etiamsi generalitas prima facie aliter possit suadere* Inst. part 4. c. 74.

The third thing in the matter of Conformity is an agreement to the Liturgy. And here may be included the old difference about our Rites and Ceremonies: and the new Declaration in the Act of Uniformity.

For our old Rites. That the Church hath a Power to appoint Ceremonies I do not question, but how far this Power doth extend, is not perhaps so easy of decision. There is the Worship of God, and the Circumstances of it. The Worship of God it self cannot be instituted by Man, but God only, because there is none can know what will please him unless he reveal it. Besides, *Will-worship* is forbidden by the Apostle; To add or diminish by *Moses*; And this

this is the substance of the second commandment. Circumstances of Worship are its appendages or accidents which when they go not into the essence of that honour, which we give unto God according to his excellence (the School-definition of Worship) do appertain as necessary to the person in the performance. Those Ceremonies consequently which are not necessary to the person who acts in a thing which God hath commanded for his immediate honour thereby, are more then circumstances of the same (I will speak surer, are in my account or according to this adjustment I make, more then circumstances, or more then belongs to man to prescribe in Gods Worship,) and let them that impose them, or use them, look to it My reasons are, because this is a peculiar branch of Christian liberty to be freed from the Ordinances of men. Also I argue, That which is unlawful and forbidden the Church hath no Power in, for our Doctors say her Power lies in indifferent things that are neither commanded nor forbidden. But it is forbidden by the Apostle to enjoyn any thing that is not to Edification. *Ergo*, In things that are unnecessary and unprofitable I apprehend the Church hath no Power (that is, hath no right from the Will of Christ) to put Impositions upon us as to Gods Worship, and consequently

quently there can be no ſubjection due in Conſcience to ſuch things. Things now that are neceſſary to him that acts in the Worſhip of God are ſo either in *genere*, or in *ſpecie*. In things that are neceſſary any way I am willing the Churches Authority be owned, and I think one ought to ſubmit his private judgment very much to hers in judging a thing edifying or not. When things in *genere* are neceſſary and not determined by God in *ſpecie*, theſe are matters we ſuppoſe, wherein our Church or Rulers Power doth lie; And here we muſt diſtinguiſh of the Impoſition, and the peoples Submiſſion. As for our Submiſſion, I apprehend that whenſoever our Rulers do act in their own Sphere, and the things they command be lawful, we are concluded under obedience by the fift Commandment. For the Impoſition there is need of a double diſtinction. The one is concerning thoſe things which are neceſſary *in genere* and not determined by God *in ſpecie*, and they are either ſuch as are needful to be ſo determined; or not needful ſo to be. For inſtance, Time and Place are circumſtances of Worſhip *neceſſarie in genere*, for there muſt be ſome time and place, and this *in ſpecie* is needful to be determined, for elſe cannot the Worſhip of God be performed. On the other hand, there is the Habit

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and Gesture, which are in *genere* also necessary: No Minister can come to Church but som habit he must have on, and he must use some gesture: but the determination whether it be of this or that Colour, in the Pulpit Black, in the Pew White, or the like, this is not needful to be determined, because the Service may be performed though that be not appointed. Now it is a question to me whether it be lawful for our Superiours to determine of things that concern Gods Worship which *in specie* are not necessary to be determined. For two reasons. The one from the analogy of that text, *It seemeth good to the Holy Ghost and us, to lay upon you no greater burden then those necessary things.* The other from those Rules unto which the Church is tyed in her injunctions, to wit, that she do nothing to eay a stumbling-block before the weak brother, nothing but what is fit and decent and to edification. But it is impossible according to the condition of our Nation, to determine such things in Gods Worship as need not be determined, but it will scandalize many, and so cannot be to edification, when it is to their destruction. Nevertheless the other distinctiou is here also to take his room, to wit, between the Matter imposed and the Act of imposing. Though the Act of imposing were unlawful

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(which yet I peremptorily ſay not, yet is the matter impoſed, ſo long as it is about that which *in genere* is neceſſary, no other then what does belong to the Sphere of our Superiours, and conſequently obliges the outward man in point of Submiſſion. The *outward man* I ſay *de induſtria*, for whatſoever the commands of our Superiours in indifferent things be, rather then *reſiſt*, we muſt do them: though thoſe commands in *Eccleſiaſticals* muſt be for our *Edification*, and in *Civils* for the *Common good*, when they carry the Authority of God to bind the *Conſcience*. See *Suarez De Legibus*. l. 1. c. 7 and Dr. *Field* on the Church. *B*. 4. *c*. 34. Nor am I ignorant here of the quarrel moſt have at theſe Ceremonies, meerly for their being *Significative* (which muſt be confeſs'd in the ſtated account of them,) when if they were not indeed ſo, the Compilers of the Common Prayer would have accounted them unprofitable and relinquiſh'd them. It is one thing therefore (I account) to make a Rite to be *Exhibitive of Grace*, and another to make it *Significative of Duty*. A Sacrament I know in the Catechiſme after *Auſtine*, is defined *an outward and viſible Sign of an inward and inviſible Grace*, and ſome of our Rites you may ſay are made to be ſuch. But this is not all the definition, we muſt not cut off there. *A*

Sacrament is an outward sign of invisible Grace (such as remission of sins) *given to us*, &c. Note that. Now if any Rite of the Church be made a sign of invisible grace *given*, or to be given to us upon the use thereof, I shall see good reason for a mans dissent from her Liturgy till that be removed. For let me offer a little light here. To say the Church in such and such Rites makes a kind of new Sacraments, Take the word *Sacrament* in a common usage among the Ancients, and this is nothing if you understand not where the evil of so doing would lie. And where is that? Why a Sacrament being a sign of Grace *given* to us (that is of the grace of Gods part which he gives) thereby, there is none can be the ordainer of such a thing but God only, because it is he alone that can promise that Grace and give the same by it. If any mortal then should bring in such a Rite into the Church, and make it an exhibitive sign, that is a sign of the Grace of God given by the same, it were a most strange presumption in imposing upon the Almighty, manifestly, as if he should be tyed to exhibit his Grace according to the Will of Man, or upon an institution of his, the evil and horrour whereof must appear in the mention of it. But to make any circumstance of Worship, any piece of Decency, Ceremony

ny or Rite to be *ſignificative* only in puting us in mind of that Grace which is our duty (not as what on Gods part is given hereby, but what is) incumbent on us to exerciſe and ſtir up our ſelves unto, at all times, whether we uſe this Rite or no, and whereof it is good to be ſtill put in mind, I apprehend not my ſelf the harm therein, at leaſt not ſuch as that this ſignification ſhould make ſuch Rites to be Sacraments any more then the Fringes were made ſo on the *Jews* Garments for keeping them in mind of Gods commandments. *In ritibus, ſi materia ſit ductilis, nihil tutius quam ea reſtituere quæ primis poſt Apoſtolos ſæculis obſervata apparent. In hoc autem rerum genere quippe per legem divinam indefinito, recte fecerit ſumma poteſtas, ſi imperia ſua ſubditorum affectibus attemperaverit.* Grotius *De imp. ſum. pot. c. 6. §. 11.*

For the new Delaration of *unfeigned aſſent and conſent to all and every thing contained in, and preſcribed by*, the Book of Common Prayer, and Orders, I muſt confeſs it is to me, too much methinks of all Conſcience to be impoſed under that ſtrait preſcription of *thoſe Words and no other.* The deſign of the Act ſeems only to intend a compliance to the uſe of the Liturgy, and what need ſuch a preciſe form of Words as this, or that of the Canon, in the

old Subscription? What if a man would use the Common Prayer and consent to it in other Words? Why might not that serve? It is a hard thing to be forc'd to bear ones Testimony to the Book of Common Prayer in those terms as a man cannot declare to the Bible it self, or any Book in the World. If we turn to the Books of the Chronicles, and the Kings, we shall find it is said of the same man in one Book he was two and twenty years old when he began to Reign, and in the other he was two and forty. That these places are reconcileable, and reconciled in the *Hebrew*, we will suppose: But if I were put upon an attestation to the *English* translation, which is our present Bible, *in these Words and no other*, that I assent to every particular thing and passage contained in it, I must refuse, or pause at least, till I have made my interpretation. We must therefore have our recourse here to what was said before as to the forms and composure of late injunctions, and in regard the intendment of the Lawgiver or the Imposers is to be attended in all Laws, we may consider in the first place whether any man can seriously imagine for himself, that the Majority of Parliament could ever intend that he should give such an approbation to the Book of the Liturgy as is more then he can give to the Book of the Scriptures?

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Or rather whether he is not allured that if he give such a testimony to the one as he can to the other, he does come up to the utmost of their meaning, and performs as much as possibly they can be thought in reason to desire of him? We may consider then in the next place, there being some Mitigation proving here to be necessary, that when this man cannot declare to the Bible in those precise terms of assent to every particular thing in it, yet can he consent to the use of the whole, or to the reading of all and every thing therein without scruple. For instance, I cannot assent to the Words in both the Translation of the Bible and Psalter of that one verse of the Psalm where it is read in the one, *they were not disobedient*, or they *rebelled* and in the other, *they rebelled not against his Word*, seeing they are contrary: but I can consent to have both translations read in the Church, so long as a good construction may be (as *Hooker* shews) made of Either. So in the Liturgy, I assent not to that passage of *Athanasius*'s Creed that *whosoever holds not that Faith entire is undoubtedly damn'd*, for I doubt not but many of the *Greek* Church may be saved that dissent in one Article of it: Yet who would not readily consent to have that Excellent Creed used as the judgment of the ancient Church, for the curbing loose Wits from the

danger of swerving about such Mysteries? To proceed upon this, Thus much I hold to be good, that whosoever could make this Declaration, if the word *Use* were put in, *I A. B. do declare my assent and consent to the use of all and every thing in the Book*, he may make it no less now though it be left out. For though it may seem a hard Chapter to give ones consent thus to the *use*, in such a form of Words as declares to the *things*, and not at all to the *use*, that word being left out: Yet in regard the preceding words of the Act which enjoyns this Declaration on on the persons there concerned, are expres, *He shall declare his assent and consent to the use of the things in the said Book in these Words and no other*, this Declaration in these Words (though they be in no other) must be understood to be to the *use*. We can have no greater evidence of what is the Imposers meaning then their own interpreting themselves, which they have also confirmed in the preamble of the *Oxford* Act. Neither may their Words be taken but according to their Meaniug. Indeed I apprehend it not my self, proper to say *Assent to the use*, nor do I believe it easie for every one to give his *Consent* (which word is proper) to the use of every particular prescribed in the Rubrick and Orders, so that, as I do not know what advantage, or how much,

much, may be made hereof, I must needs say moreover, that it cannot be thought by any that are considerate but that in an imposition which contains so many things in it as this, there is and may be several exceptions picked up and prest so to the quick, that no body shall be able to say any thing to the purpose, but that here is a tacit general allowance to be given to all these draughts of Men, and Humane things, as subject to oversight, diversity, and imperfection: and that as we have a refuge from the rigour of the Words of any Law, to the Meaning of the Lawgiver, so are we to pass a righteous judgment on their Meaning, that we burden it not with any thing that is intollerable, or not comporting with our *Equal*, and *Believed* interpretation. We must consider therefore in the third place more nearly. There is a *Consent*, Let us understand, that is *External*, if I may use the Words of Bishop *Bramhal*, and I be not mistaken; and there is a subscribing to the Doctrines of a Church as *Articles of our Faith*, or as *matters of Concord*, in the Words of Bishop *Usher*. When a man is required in the old Subscription, and this new Declaration to assent and consent to *all* and *every* thing in the Liturgy, it is sufficient I apprehend that there be this *Consent* which is *External*, and such an *Assent* which

is proportionable to things required only for *Agreement*, and not ſuch as is requiſite to *points of our Creed*: So that if a man will ſubmit to the practice of theſe things eſtabliſhed, and will not oppoſe any of them, this in ſhort is as much (he is to account) as is expected of him in theſe Impoſitions.

This is certain that no Laws which are Humane, can meddle with the internal Acts of Man, and conſequently that his aſſent and conſent can be no otherwiſe, or no farther concerned herein, then is neceſſary to the reſolution of the outward man and external Obedience. It is true alſo, There is a diverſity of Faith, at leaſt as to the *Majus* and *Minus* of it, to be allowed to the matters even of Scripture, and much more to the Contents of any other Book whatſoever. I will add, that I dare not deny but that it may be conſiſtent with the Integrity of a Chriſtian, in relation to many particulars, to ſpeak and act ſometimes with the *Many*, yet reſerve ones inward thoughts in their native Ingenuity and Liberty with the *Wiſe* and fewer number.

What may be gathered from hence farther I leave: But there are few or no Churches that have not their Rites, and Confeſſions, and the like, unto which they require the ſignified approbation of their Miniſters, eſpecially when

when they first enter that Office, that they may stick the faster to them for the time to come; and it is not possible that all, if any who are men of Free and Searching judgments, should inwardly, and with conviction, perfectly accord in every point, words and all, with the same. There is a submission therefore of ones private judgment and belief (especially I say while a man is yet green) in some point to our Superiours, to the Church, or Common judgment, as Learners yield to their Teachers, and the Client to his Counsellour, which is an External kind of Assent (as I spoke now of a Consent to what they prescribe in like manner) serving to *Concord*, when there is no less than an internal experimental knowledg and faith in necessary points will serve unto *Salvation*.

I must confess it were a happy thing I judg when the most of our serious Fathers and Brethren are not unwilling to take a latitude themselves in their sense of the things they Impose, or are Imposed on them, that they would come once to make the business of Conformity to lie no longer in any forms of Words, but in agreement to the general design only of those Acts which prescribe such or such Impositions: Nevertheless while those ordinarily who are in Power are so apt to look upon it as a piece

of Wisdome, that they may not bring any guilt upon their cause, or the Church appear inconstant, or for the like reasons, to keep up still unto that which *hath been*, there is a necessity that men must be ready to bend a little and find out something to satisfie their Consciences, wherein they act, or else retire and give off for this World. I remember there was a time when *Cato* himself by the contrivance of his enemies was brought to such a streight that either he must swear to a Law, and give his consent against his judgment, or else from the example of old *Metellus*, be like to be Banished; and he was perswaded by *Cicero* from his stiffness for the service of the Commonwealth, to temporize for once, rather then be rendred useless for ever after by his refusal. I cannot say that any man who is a Christian, may do so in a *case of Confession*, when he cannot save his Conscience: but if he can save it in this business of Conformity, I shall not blame him after *Cato*, for a little condescention. And I think I may apply here the Wise Man's saying. *Be not Righteous overmuch, Why shouldest thou destroy thy self?*

For the matter of scandal. That now remains, and does deeply concern this Argument. There are two Cases of it momentous in Sripture,

Scripture. The one is, when a man is satisfied himself of the lawfulness of a thing, but by his doing the same he shall induce some others to it, that are either not under the same Circumstances, or not satisfied in Conscience about the doing, and to them it is sin, which when a man shall reflect on afterwards, he knows not what a Wound it may be to him. *If you sin against the weak brethren and wound their Consciences, you sin against Christ.* The other is, when a man shall use that liberty he hath himself in a thing which is so abhorrent to some of his brethren, that they be ready thereupon to fall away from the true Religion, and so perish inevitably. This made the matter of *meats* (I apprehend) to be of so much danger in reference to the *Jews*. *For meat destroy not him for whom Christ dyed.* It must be acknowledged therefore by me here, that when a man is indeed in such a case as that he shall certainly give either of these two scandals to others, he hath need to look to himself. It is not enough (I fear) to say, The matter of scandal does lie in indifferent things, but when Authority hath commanded them, they cease to be indifferent, and then *cessante materia*, the scandal ceases. For besides that if it were not for this command and danger of the penalty, a man should not at all be scandalized here-

in, having no temptation otherwiſe to do the thing which is againſt his Conſcience, and whatſoever is ſo, we know is not to be done for all that command: Beſides this I ſay, ſuch a ſolution as this, is ſo eaſie a way of diſpatch, that Chriſtianity I am perſwaded, requires more care, and carries in it more difficulty then that comes to. A man (as my mind does give me) muſt yield an account unto God for that opinion that will looſen his awe toward him, and tenderneſs toward his brethren, more then he does allow. God commands, Thou ſhalt not do that thing which will ſtumble thy brother ſo as to wound his Conſcience, or deſtroy his Soul. Man commands, Thou ſhalt do this or that thing which will wound his Soul and deſtroy him. Who muſt be obeyed, God or Man? If I ſay to this, God does not command, Thou ſhalt not do that thing that will wound thy brother, but thou ſhalt not do that *indifferent* thing that will wonnd him, and when it is *commanded* by the Magiſtrate it is *neceſſary*, and a duty, this anſwer will not ſerve. For beſides that this limitation is Mans gloſs and not in the text, the bottom I think lies here, Where there is a *former* Obligation, as there, is from that command, *Thou ſhalt not kill*, on the Conſcience before, it cannot be taken away by a *later* as that of the Magiſtrates muſt needs be which yeſter-

yesterday was not. Moreover, That the Magistrate be obeyed is a duty of an *affirmative* precept which binds not *ad semper*: But that thou shalt not kill, or that thou shalt not scandalize thy brother in these senses which is in earnest the murdering of his Soul, is the duty of a *Negative* precept, which binds *semper* and *ad semper*, and so must take place of the other.

There is another way of satisfaction then, that a man must find here in his practice, when he cannot be help'd by his Brain. It is this. The objection from scandal against any thing in the point of obedience, does not nullifie the Duty which is commanded by the Magistrate, but it puts a barr to the Action, so that a man must first remove the scandal, and then do his duty. Whosoever thou art that readest these lines, take this with thee, remember it for thy occasion, and bless God. Now then as to the first Case. Are there any likely in anothers conforming unto this or that matter enjoyned, to be induced by him to the same, who are not under his circumstances for it, or not yet satisfied in Conscience about it, and so shall be wounded by his fact? Then let him go to such persons, If he satisfie them with his reasons, they are *edified* not *scandaliz'd* by him: If they are not, he may charge them not to do

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as he does, by his example. For the second case likewise, Let a man set him down impartially, and neither overweeningly of himself, nor unconcernedly toward others, consider whether his doing this or that thing is like indeed to have such an effect upon any, as that they shall be ready to think all Religion hereupon to be nothing, and so cast off all care of their Souls for the future, or at least depart from that holy way of profession wherein they have entred, insomuch that he verily believes it may be an occasion to their everlasting perdition, then let him in the name of God forbear the thing. I dare not judg otherwise then so. It is beter that a Mill-stone were about his Neck, and he thrown into the Sea, then that he should thus offend any: and there is nothing so bad I hope as that, like to befall him in the forbearing. But if the matter comes only to this, that folks will be displeased, some *grieved*, some *angry*, some triumph, so that he shall lose his credit hardly with a great many, some will count him a Knave, and others a cold man, and many will revile all the Sect for his sake: I do not think any thing of this, nor all this can stand in competition with Obedience to Authority. That the name of God and good Men are reviled, is a thing 'tis true, not to be made light of: but it is a mans *doing evil*, in the causing

sing it, makes him culpable, *Ro.* 2. 24. *Mat.* 15. 12. In fine, Do thou thy Duty with an upright heart, and God will take care of the issue.

The business of this Chapter thus being dispatch'd, there comes into my mind for the close a certain prank of a Minister in *Somersetshire* a very laborious pious Servant of Christ that wrote for the Morality of the Sabbath, and was very Zealous in that point, who when the Book of Liberty came out, took this course. He read the Book in the Pew (as his theme) in Obedience to the injunction, and then went into the Pulpit immediately, and Preach'd up the observation of the Sabbath with all his vehemency, so satisfying his Conscience about it. I do believe many good men who left their Ministry rather then they would read that Book being against their Consciences (though in the judgment of the point I meddle not) did glorifie God at that time, witnessing a good confession: and I dare not say but this eminently godly man (it was Mr. *Bernard* of *Batcomb*) did bear his testimony as well to the honour of God, and kept his Ministry. I say not neither assuredly that his action was laudable, but I say the best of the dead. The one might glorifie God in an act of prudence and faithfulness to his Flock, as the other in self-denyal

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and abrenunciation. I let this instance pass on purpose in regard this difficult case may happen. A Minister is put to read a thing that in his Conscience is unlawful; He must obey the Magistrate, and he must be true to his Conscience. If he cannot obey man, but he must offend God, he must choose to suffer. But if he can obey, and be true also to God, if he see the way clear to do both, that methinks were to be chosen. When an act is evil in it *self*, it must be avoided, but if it be evil only in the *Consequences* of it (as reading in this case seems to be,) let those consequences be prevented, and the act is free. Where a testimony for God does preponderate the service of man, much methinks may be done. After I had wrote this, I light on Dr. *Taylor* in his Cases l. 3. p. 243. with 176. *Mauritius* commands *Gregory* to hand an Edict to the Churches, that no Souldier should turn Monk without his leave; This in his Conscience is wicked; Hereupon he admonishes the Emperour of it, Prays, Preaches, declaims against it, yet withal upon the command publishes the Edict, giving this account of it. *Utrobiq; quæ debui exolvi, qui imperatori obedientiam præbui, & pro Deo quod sensi, minime tacui.* The Dr. hereupon resolves the case very boldly. *The unlawful Proclamations or Edicts of a true Prince may be published*

by

by the Clergy in their ſeveral Charges, yet they muſt not conceal from the people any part of their duty, nor from the Prince, if they can declare it. My thoughts here you may ſee are ſomething parallel, but more fearfull in coming on to the main entendment. There are many at this day of thoſe they call Non-conformiſts have left their Livings and Station in the publick Miniſtry upon the Act of Uniformity. I ſuppoſe the moſt have done it very honeſtly and to God's glory, though ſome of them the Lord knows not without Humane frailty. I know not whether the ſame perſons might again find out ſome way of doubling the ſervice of his name, in reſuming their Miniſtry, with the preſervation of their Conſciences, which (how much or little ſo ever this Mite of mine may conduce unto) are not perhaps incompatible to thoſe that will uſe ſearch and entreaty in the matter. They have born their Teſtimony for Reformation againſt preſent Impoſitions, now they may bear their Teſtimony alſo for Peace againſt Schiſm, obſtinacy, and faction. They have exerciſed ſelf-denial, let them exerciſe Humility, Charity, toleration. St. *Paul* who withſtood *Peter* againſt the Ceremonies, did upon occaſion after conform himſelf to them. A good Chriſtian may have more ways then one to glorifie God in his generation.

I will acknowledg there are twenty things and more, which, if they be severely pressed on tender and reflective minds, are enough to stumble them; and I am not the man who am like to go about the answering all particulars of that kind: Nevertheless, if there be any persons fearing God shall receive that enlargement of heart by the Rule I have laid them down, or any consideration else which I offer them in the general only, so as they can retain their Ministry, and submit to these Impositions which otherwise they could not, or others cannot, I shall have no cause I hope but that I may bless God for it, who does ordinarily according to his manifold Wisdom and Goodness toward his Church, in such turns of his Providence as these, provide some persons to be his Confessors, and to lay down all they have rather then offend their Consciences: and some to carry on the publick work without deserting their Station, and yet maintaining their integrity in what they do. Neither may that Author be less studious of charity toward his brethren, and of the honour of God thereby, who does industriously endeavour to heal the scruples of those that out of Conscience do Conform, then another who offers his Apology for such who out of Conscience also, dare not. I confess if a man can

by

by no means ſave his Conſcience I have done, or if his heart cannot bear it. If he may enter again into the Vineyard without cloggs, and his Soul be in frame for it, it is what he ſhould deſire of God. But if he cannot, why ſhould he become a *burden to himſelf?* God will have *Mercy* I hope, and not *Sacrifice* in this caſe.

After all, I have yet one thing methinks which I muſt alſo offer. Suppoſe a man who hath been a Non-conformiſt hitherto, ſhould come to this reſolution; To wit, to be ready to conform, in declaring, ſubſcribing, and yielding to whatſoever is impoſed, ſo far, or to ſo much as ever he can according to his Conſcience, and if that will not ſerve his turn, to be fixt, not to go a jot farther, for any thing, or any body: but if it will ſerve him, and they wink at the reſt, to be contented to do ſo, and to try. Suppoſe farther, that ſuch a one ſhould publiſh this, ſo that it being known as far, *how* he does it, as *what* he does, he ſhall not thereby become guilty of active ſcandal unto any, ſeeing if others do as he does, and but ſo, they will do no more then according to their Conſciences, as he reſolves as to his, and ſo ſhall they not be wounded by the example: If they be troubled only, that another does (if he could, or if he can) what they can't or won't,

That

That I connt must give place to edification. I ask, what may be said unto this? Let the Prudent give judgment. It may be possible some may scruple, or object, that the fear of God which requires our obedience to Superiors will not stand at any time with such a prefunctory or unfaithful performance of their commandments. I answer, As the commands which are divine reach but to a mans *Natural* Can, that if he does what he is able, God accepts of the *Will*, for that which he *Cannot*: So the commands which are Humane, reach only to our *Moral* Can, that when a man hath done so much of them as his Conscience will let him without sin, or is able to render a sufficient reason why he does no more, this is to be accepted of him, as perfect in its kind. *Leges humanæ* (says *Grotius*) *vim obligandi tum demùm habent, si latæ sint ad humanum modum, non si onus injungant, quod a ratione & natura plané abhorreat.* 'Humane Laws (says Dr. *Taylor*) 'bind the Conscience of the Subjects, but yet 'give place to just and charitable causes; which 'are competent and sufficient, is not expressly 'and minutely declared, but it is to be defined 'by the moderation and prudence of a good 'man. *Too rigorous it were* (says Mr. *Hookeo*) *that the breach of every Law should be held a deadly sin: A mean there is between these extremities if so*

so be we could find it out. His last Book, and his last Words.

CHAP. VII.

The Conclusion for Peace.

HAving asserted the inviolable authority of the present Powers over us, and our subjection to them as the *Ordinance of God*, against all principles, inclinations, and pretences of future disturbance in this Nation, and offered some endeavours for a universal compliance (so far as may be, and as I can) of the Consciencious with their injunctions: I do think it but seasonable that regard be had now to the reciprocal duty and pious affection which the Magistrate ought to bear toward his subjects, that seeing their fidelity to him, and so his security does hang so much as it does on Religion and Conscience, he may be exceeding tender of their Consciences in the matters of Religion: wherein, as he is to take heed he doeth not *exceed*, we are not to desire he should *neglect* the Commission he hath from God about it.

If any expect some Determination on this point, it must suffice the judicious, if I offer him here only this contraction.

There is a difference to be held in the first place, between the Magistrates *taking care* of Religion: and his *compelling* people to it. No body can force another to *believe* any thing which he does not, and consequently not to *practice* any thing which is not to be done but upon that Faith. There is a difference again next, between the compelling men to their duty even in Religion, which is *according* to their Consciences: and the compelling them to any thing *against* their Consciences whatsoever it be in the World, especially in matters of supernatural Revelation. To act against a mans Conscience is sin. But the Magistrate cannot command a man to sin. There is a difference lastly between the not *forcing* any to a thing *against* their Consciences, which the Magistrate must take heed to do: and the *restraining* men from doing things *according* to their Consciences, when they are erroneous, and when if he let them alone, they may bring *themselves* the *Church*, or *State* to ruine. There is no Toleration to be desired of the Non-conformist that is sober, but one *Stated*, and so far agreed to in the general, that the *Articles of Religion*, a *good Life*, and the *Government of the Nation* be secured.

We

We know it hath pleaſed his Majeſty to expreſs his gracious inclinations to Moderation on ſeveral opportunities: and diverſe Papers have been publiſhed for the advancement of ſo bleſſed a deſign. It would be no good News to hear that the hopes of ſomething of that nature ſhould have put any at a farther diſtance then they were in before to Unity. Upon which account it ſeems to me but an honeſt thing to let theſe Sheets go abroad for *Obedience*, among others that have been ſent out for *Condeſcention* and *Indulgence*. I would fain indeed do what I could equally on both ſides, that one party ſhould come up as far as ever they can, and the other in what they really cannot, might yield to them. I would not be partial to my own intentions, which being diſplayed thus indifferently, I ſhall hope for Candour from the concerned, and that the *Integrity* of my *Endeavour* ſhall compound for the *Meaneneſs* of the *Performance*.

There are Objections or Arguments againſt Conformity in ſome Papers, particularly in regard to the *Oxford-Oath* and the *Subſcription*, which cannot (as I believe) receive ſolution by any but one way only, intimated in the fourth and Sixt Chapters preceding, that is by a Mitigated Conſtruction of ſuch Impoſitions. And

forasmuch as they who were concern'd hitherto to answer them, either would not, or could not tell how to do it, when yet there are no Ministers that are Conformists but do *Subscibe*, and several of the eminent Non-conformists have took that *Oath:* it is no little nor unnecessary piece of Charity and Righteousness to both these sorts of persons, that I have proposed such a Rule to walk by under the injunctions of our Superiours, as that they who *Conform* to them, and those that *cannot*, may see reason to retain a fair opinion of one another, and to believe that neither have departed from a good Conscience in what they do.

I will instance in that Oath for Example. Let us in the first Clause of it, understand by *taking Arms* the *raising an Army*, or a *War* (which is truly the proper meaning,) and by the *King*, the King's own sacred *Person*, and I see nothing but one may subscribe these Words *I A. B. Do swear that* (I hold, or believe, which is to be understood) *it is not lawful to take Arms against the King upon any pretence whatsoever.* In the second Clause let us understand by those *Commissionated by him* such as have a due Authority from him, and exercise it only according to Law (which is likewise the true meaning) and I see no more difficulty in this Clause neither. *And I do abhor* (that is disown,

own, or diſclaim) *that trayterous Poſition of taking Arms by his Authority againſt his Perſon, or againſt any Commiſſionated by him, in the purſuit of any ſuch Commiſſions*, that is *Legally* Commiſſionated by him, and in the *Legal* purſuit of ſuch Commiſſions. In the third Clauſe let us diſtinguiſh an *Endeavour* to Change or Reform any thing in the Church or State which we think conducive to the good of the Nation in a Parliamentary way only as is allowed by the fundamental Law and Courſe of the Realm, from an *Endeavour* (as before) in any other way that is not ſo warranted, to wit, in a ſeditious way, or in ſuch a manner as they did in the late times, when they endeavoured the extirpation of Prelacy by force, againſt, and without the Kings Conſent in Parliament, and let us take this to be the ſenſe (as I think it was) of the Majority of thoſe that paſſed the Act, and then is the offence over in the laſt part of the Oath alſo. *And that I will not endeavour any alteration of Government, either in Church or State*, To wit, in any manner not warranted by the Conſtitution of the Land, or any otherwiſe then by Act of Parliament.

Not but I am highly ſenſible of one evil and inconvenience in our late Impoſitions more then heretofore, which is, that they make matters of *Government* to become *Caſes of Conſcience*,

ence, and so engage the poor *Divine* upon the work of the *States-man* and the *Lawyer*. If there be no other benefit then comes by this Book there shall be this however, that the Wise will see of what nature and difficulty *Conformity* indeed is, while such points as you find here are brought into dispute, and so into doubt and danger by the occasion: and consequently what reason there is for the withdrawing such Acts which (to say no more then so) do put so slender a person as I, upon the Argument of these Papers. It is not for a man to be lead to an *Oath*, as a Bruit to a *Stake*, before he hath considered what he *Swears* or *Subscribes*. And it is in vain to talk of considering any thing, if we dare not look into it to the bottom. Thou shalt *Swear* says the Scripture, so say I, Thou shalt *Declare*, thou shalt *Subscribe*, thou shalt *Conform* (if thou doest at all) in *Judgment*, *in Truth*, *and in Righteousness*.

It hath been always a grievous thing to me, I must profess, to see any troubled for their Consciences, who am solicitous for them lest that trouble should hurry them to the doing some things they are unsatisfied to do, and wound their Souls. If they are wounded, I methinks am wounded, afflicted, and suffer with them. My heart longs for some Accomodation, and stated rest for the Land: for *Accomodation* with the

Sober,

Sober, and *Moderation* towards *all men*. Yet am I wary also least in seeking moderation, we should forget to be moderate, and by falling into that fault my Lord *Bacon* accounts incident to men who find things better in their *Books* then in the *Practice* be apt *to contend too far to bring things to perfection*, and loose the beginnings that otherwise might be made. There is this one thing alone I am apt to think might do much. If all *Declarations* that are required to be *Made*, *Subscribed*, or *Sworn*, were Imposed only as to the *Matter* and *End*, leaving those who submit to them *free* to the use of their own *Expressions*.

I have now done, after I have given warning that no man presume to take occasion from this Discourse to act any farther in the case of Conformity then he is fully perswaded in his own mind about it. If he does so, I must protest he hath not me for his Example. I have purposed from my heart for my part, by God's grace, not to stirr a step farther then I find my judgment to go along with me, who though I write liberally in regard to others, and believe that many honest and discreet men may take up with it, yet must I be sparing in what I do my self. I cannot, I dare not, but act methinks by the *Penn*, when it is by *Talents* that I speak. And for my own practice, if any desire to know that, I refer

fer the Reader to a few Sheets, Entituled, *The Healing Paper*, which came out some little time before the end of the *Methuselah*-Parliament. *Recordare mei Deus mi, nec finito deleri beniginitates meas seu potius desideria & conatus debiliores, quos exercui erga domum dei mei, & erga observationes ejus. Sed dele mihi peccata omnia mea, & dolores per sanguinem Filii tui. Et fac, ut ex omni carnis vitioso affectu, & Conscientiæ insidiante laqueo, mentisq; atra bile superfætantis gravedine ereptus, tibi inserviendo, toto corde, & fideli & alacri, quæ superest vitæ partem impendam: Recordare mei Deus mi in bonum.*

THE END.

A BILL FOR ACCOMMODATION.

WHereas there are many Jealouſies riſen about *Popery*, which makes it even neceſſary to the Peace of the Nation, that the *Proteſtant* Intereſt be united and ſtrengthned by all good and lawful Means: And to this end, there being this one proper Expedient, to wit, the removing the Occaſion of Diviſions, which ſeveral Perſons do find to themſelves in thoſe late Injunctions, which yet were intended to the ſame purpoſe of Concord in the Nation: Be it Enacted, ——— That an Explanation of theſe Impoſitions, and ſuch Alleviations, be allowed to the tenderly Conſiderate, and peaceably Scrupulous, as follow.

In the *Act of Uniformity*, By the *Declaration of Assent and Consent to all things, and every Thing contained in, and prescribed by the Two Books of Common Prayer, and of Ordering Priests and Deacons*, we understand not, that these Books are in every Minute particular, infallible, or free from that Defect, which is incident to all Humane Composure: but that they are in the main Contents, to be sincerely approved and used. And we do therefore allow this Declaration to be sufficient, if it be made to the use of the Book, in the *Ordinary constant Lords Day Service*, notwithstanding any Exceptions some may have against some Things in the *By-Offices*, and *Occasional Service*, the *Rubrick*, and otherwise. And for the Ceremonies which are made, and have been always, and on all hands, held to be only indifferent Things, we think fit that they be left to the Consciences and Prudence of Ministers, and People, every where (excepting the

These Materials were provided, during the sitting of that Parliament which passed the Act of Uniformity, and other the like Rigorous Acts; and are therefore drawn up in the form of an Explanatory Bill, because it was supposed, they were not like to Repeal their own Acts, though they might be got to Interpret them. But now we have a New Parliament, and that after another also Dissolved, we may expect quicker work: Yet will the Proposing these Things still to view, have their use, both for suppressing such as have said, The Nonconformists know not what they would have; and fitting some Measure to our own Desires, and the Parliaments Condescentions about the same.

the *Cathedrals*) to uſe them, or forbear them, as they judge it moſt meet for their own and others Edification. Provided, that if any Perſon will have his Child Baptiſed with the Sign of the *Croſs*, or ſtands upon any thing elſe, hitherto required by the Service-Book, if the Miniſter himſelf ſcruple the Performance, he ſhall permit another to do it.

In the ſame *Act*, By thoſe Words in the *Subſcription*, that *It is not lawful to take Arms againſt the* King, *upon any Pretence whatſoever*; we intend no new or ſtrange Thing, but the rightful Maintenance only of the *Kings* Authority againſt Rebellion, according to the common Determination of Learned Writers, in the Caſe of Subjection to Princes. By the Words, *I abhor the Poſition of taking Arms by the Authority of the* King, *againſt any Commiſſionated by him*, we never thought of Advancing the Arbitrary Commiſſions of the *King*, above Law; but by thoſe *Commiſſionated by him*, we underſtand ſuch as are Legally Commiſſionated,

That we have our Reaſon for theſe Interpretations, any one may ſee that pleaſe in thoſe Arguments againſt the Oxford Oath, *and this* Subſcription *which are offered in a little book Entituled* The Peaceable Deſign, *ſo that we can by no means ſubmit thereto, without them. There is moreover this Clauſe* [And I will conform to the *Liturgy* of the Church, as it is by Law Eſtabliſhed] *we deſire may be ſpared, becauſe upon our Declaration before of* Aſſent *and* Conſent, *(which muſt be the Bounds of our Senſe thereof) it is needleſs altogether, and can ſerve but for a Snare only to Mens Conſciences.*

missionated, and in the Legal Pursuit of such Commissions. By the Clause which follows, that requires a Renunciation of all *Endeavour of any Alteration of Government in the Church or State*, we never meant to deny any Free-Born Subject his Right, of chooſing *Parliament Men* or Acting in his Place for the Common Good any way, according to Law; but that he ſhall Renounce all ſuch *Endeavour*, as is Seditious, or not warranted by the Conſtitution of the Nation; and particularly, ſuch an *Endeavour* as was Aſſumed in the late Times, without, and againſt the Conſent of the *King*: And for the reſt of the *Subſcription*, which is enjoyned but to the Year 1682. Be it enacted, that it ceaſe preſently, and be no longer enjoyned.

And foraſmuch as there is an Oath preſcribed and required of all *Non-conformiſt* Preachers, that Reſide in any Corporate Town, by a certain Act of the former *Parliament*, made at *Oxford* in the 17th. Year of His now Majeſties Reign, Entituled, *An Act for reſtraining* Non-conformiſts, *from inhabiting Corporations*: We do further declare, That it ſhall ſuffice any Man, for the Enjoyment of his Free

This Oath is of the ſame Contents with the Subſcription *before; and to impoſe both, is nothing elſe but the multiplying Wrath, and laying Load on the already Laden.*

Free born Liberty, of Inhabiting where he thinks best; and serve him also instead of the fore-mentioned *Subscripton*; to take that *Oath* in this Form of Words following. *I A.B. do swear, That I hold it unlawful upon any Pretence, to take Arms against the* King, *his Government, or Laws: And that I disclaim that dangerous Position, of taking Arms by his Authority, against his Person, or any Legally Commissionated by him, in the Legal Pursuit of such Commissions: And that I will not endeavour any Alteration of Government in the Church or State, in any way or manner, not warranted by the Constitution of the Kingdom, or any otherwise than by Act of* Parliament. And as soon as any Man hath taken the *Oath* thus, he shall be discharged of all Penalty for his Omission before.

We do declare moreover, That whereas it is required also in the *Act of Uniformity*, that every Minister who enjoys any Living, or Ecclesiastical Preferment, shall be Ordained by a Bishop; and there are several persons of late, who in case of Necessity, for want of Bishops took Presbyterian-Orders: Our Meaning is not in any wise to disgust the Reformed Churches beyond the Seas, and make it necessary for such to be Re-ordained to the *Office*; but that they receive this Second Imposition of Hands to the *Exercise* of their

Office in the new Charge, unto which they are, or shall be called; and that the Bishop shall frame his Words accordingly.

There is Reordinatio ad Officium, *which (we say) is generally decryed by Divines; or* Re-ordinatio ad Exercitium particulare, *which may be irrefragably proved from* Acts 13, 2, 3. *with* Acts 14. 26. *and consequently allow'd to serve this Occasion.*

And whereas there is a *Subscription* also in the *Canons*, and the *Canonical-Oath* of *Obedience*, imposed on most Ministers by the Bishops, that have given some of the greatest Occasion to *Non-conformity* heretofore; which yet never passed into Law by any Act of *Parliament*: We do further declare, That nothing more of that kind shall be required of Ministers hence-forward, then was made and held necessary, by the Act of the *Thirteenth of Elizabeth.*

If the Oaths *of* Supremacy *and* Allegiance *be taken, and the* Articles *of the* Church *subscribed, and the* Declaration *before to the* Common-Prayer, *made; we see no need of boyling over these three Things again for us, in the* Canons, *unless it be for a* Grambe Repetita, *on purpose to Kill us. Neither do we think the putting any Honest Men who fear God, out of the Vineyard, to be so good a Thing for her, that our wise Church of* England *should use so much Care and Industry as She takes, that She may not miss to do it.*

And in regard there hath been great Offence taken by Conscientious Ministers, at the Bishops, (or their Courts) commanding them to read the Sentence of Excommunication against

against some or other of their Parish, for such Faults as they think not at all worthy of so great a Censure: We declare it but a just Thing, that every Minister be first satisfyed in the Cause, or else be exempted from the Execution of that Charge; and that the Bishop (or his Court) provide some other person, that is satisfyed about it, to do it.

As we think, there is no Elder in the New Testament, who is not a Pastor, and that there is no Lay Pastor; so do we account, that there is no Pastor or Presbyter, but, such as have the Power both to Rule and Teach, committed to them by Christ: Yet do we for all that, apprehend it not only Lawful, *but* Expedient, *for the ordinary Ministers of our* Parochial *Congregations, (when the Church is* National*) to commit part of their Charge, (to wit, that of* Ruling*) in Actu Secundo, to some few among them, who are more Eminently fitted for the work, (that is, the* Presbyters*) and consequently to the Bishop; So that, if this Fundamental Right of Governing their own Flocks, be but acknowledged to Reside in every* Presbyter, *by granting so much to us as this (and what hath preceded) comes to, we shall be unwilling to fall off from* Episcopacy, *upon the Points of* Ordination *and* Jurisdiction.

And to the intent, that a free Search after Truth may not be discouraged in the Pursuit of Concord, and many other Scruples avoided upon that Account: We declare, That though an *Authentick* Interpretation be required, as to the Substance of all Laws, yet in the

The Authentick *Interpretation of an Article, is the Meaning of the Major Part of the* Convocation: *A* Doctrinal *Interpretation, is the Meaning of any one of the* Doctors *there present, (and consequently, of any*

any other Learned Expositor) *who are supposed to have the Liberty to abound in their own Sense, so long as they can agree in the Words of the* Article *Established. And this Clause therefore we put in upon Mature Consideration, in regard more especially to the* Conscientious Latitudinarians, (*which is a Name abused*) *who being some* Arminian, *and some* Calvinian, *cannot otherwise Subscribe the* Doctrine *of the same* Theses; *as the* Reader *may see more in such a sort of Book as this, called* The Healing Paper, *out of which this* Bill *for* Union *is Collected.*

Articles of the *Church*, (which are *Theses* for Agreement, and not Laws) and the *Homilies*, a *Doctrinal* Interpretation shall be held sufficient for an *Assent* or *Subscription* to them.

And because the very Superintendency of Bishops, and that Subjection to them which is required by the Constitution of the Realm, is or may be an Hinderance to many sober Ministers, and other *Protestants*, of coming into the Church, who are ready to consent to the Doctrine, but not to the Discipline or Government of it; We do declare, That so long as any Person or Party do acknowledge the *King's Supremacy*, as *Head* of the *Church* in this Nation, and obey their Ordinary, or the Bishops, *in Licitis & Honestis*, upon the Account of *his* Authority (committed to them for the Exercise of that External

That is, Although there be some that cannot acknowledge our Diocesan Prelates *to be* Christs Officers, *distinct from the* Elders *in Scripture, Yet so long as they can live Peaceable lives in Obedience to them, as Ecclesiastical Magistrates under His Majesty, for the keeping the several Congregations, in their Precincts,* to that Gospel Order, which themselves

Re-

Regiment *Circa Sacra* which is granted by all our Divines, to the Higher Powers in every Nation,) it is enough for the owning *Episcopal Jurisdiction* (so far as they do own it, in the Declaration of *Assent* and *Consent*, or in any other Part of *Conformity*,) and shall serve them to all Intents and Purposes in Law, no less than a professed Belief and Acknowledgement of the immediate Divine Right of it.

selves allow, and for supervising their Constitutions in Things indifferent, that nothing be done, but in Subordination to the Peace of the Kingdom, (*which is a Notion wherein the Judicious of every Party may acquiesce, and expressed by us in these very Words, in a Book forenamed*) *it is sufficient unto National Church Union.*

Be it therefore Enacted by this Present *Parliament*, That if any Person be willing to Conform to the Present Establishment of the *Church of England*, and her Service appointed according to these Explanations, Alleviations, Declarations, Lenitives, or Cautions, he shall be admitted to any Ecclesiastical Preferment, and enjoy the use of his Ministry without any Molestation: All Statutes, Canons, or Laws to the contrary notwithstanding.

And for the making this Act of better Signification to the Concerned, and the Prevention of that Scandal which is raised on the Clergy, through the Covetousness of some, in heaping up to themselves all the Preferments they can get, when others have scarce Subsi-

stance

stance for their Families, and the Souls of many People are thereby neglected: Be it farther Enacted, That no Clergy-Man for the Three next Years ensuing, be suffered to Enjoy any more than one Living or Cure of Souls, and one Dignity, (or other Ecclesiastical Preferment) at one Time; and that every Man (without Exception) that hath more than One of Either, shall immediately give up the Rest to be distributed among those who shall be brought off from their *Non-conformity*, upon the Terms of this *Act* into the Established Order. Which that they may also be obtained, and possessed with a clean Conscience, and that grievous Corruption of *Simony* may be extirpate out of the Land: Be it Enacted moreover, That every Patron that shall henceforward present his Clerk to any Living, shall have the Oath called *The Simonical Oath*, imposed on himself, no less than on the Incumbent: And if he Refuses to take it, that then the Bishop shall have immediate Power (taking only the same Oath) of Presentation in his Room.

We propose these Things, we confess, as if we were in Republica Platonis, *but we should be glad to see any Fruits of this kind, as those who are in* Fæce Romuli *may expect. What is Right and Just, and ought to be done, is one thing, and to be sought; though what is like to be done, or will be done is another.*

And forasmuch, as there are some Ministers of a good Life, that cannot (according to their Judge-

Judgments) allow of our Parochial Churches, nor a Book of *Liturgy*: but do chooſe to Worſhip *God*, and *Jeſus Chriſt*, in the way of their Gathered or Separate Congregations; and crave the Protection and Clemency of the *King*, upon their Allegiance, as other Subjects: Be it finally Enacted, for the Happineſs and quiet of the Realm, and the Reduction of theſe Men by other means than thoſe which have hitherto proved unſucceſsful, That every Chriſtian Subject throughout the Land that profeſs the Reformed Religion, and be not Convict of *Popery*, be pardoned all Faults and Penalties, incurred upon the Account of any Fore-paſſed *Nonconformity*; and that they ſhall not, * during theſe Seven Years next enſuing, be proſecuted upon any Penal Law for their Conſciences, in the Matter of Religion; They car-

There are two Parts of this Bill; *One for* Concord *or* Coalition *with all ſuch as can joyn in Parochial Communion, in the Clauſes before: The other for* Forbearance *of thoſe that cannot, in this laſt Clauſe. For, what ſhall we do with ſuch? we muſt not Knock them on the Head: They muſt therefore have Time. If the* Parliament *will begin with the laſt firſt, that is, a Suſpenſion of the Penal Statutes, and then let us treat for a Compoſition after, we conſent with all our Hearts, and like the Method beſt. Then Abner called unto Joab, and ſaid, Shall the Sword devour for ever! Knoweſt thou not, that it will be Bitterneſs in the end! How long ſhall it be, ere thou bid the People return from following of their Brethren.*

* *until by a further Act of Parliament, or a Convocation, thoſe that are fit to be Tolerated, and the Intolerable be diſtinguiſhed.*

carrying themſelves Innocently and Peaceably, with Submiſſion to the Civil, and without Diſturbance to the Eccleſiaſtical Government, now ſetled in the Nation: All Statutes to the contrary notwithſtanding.

In Short:

A Repeal of all our Laws about *Conformity* unto the 13*th.* of *Elizabeth*, Or, A New *Act of Uniformity*, Or, The *Kings* Declaration concerning Eccleſiaſtical Affairs at His firſt Coming in, turn'd into a Law, were *Comprehenſion*.

His latter Declaration to all his Loving Subjects (ſome few Things in Both yet a little conſidered) made ſo, were *Indulgence*.

A Bill for *Comprehenſion* with *Indulgence*, both together, will do our Buſineſs. An Addition, or Clauſe in it, againſt *Pluralities*, will do it with Supererogation.

Deo Gloria.

Poſtſcript.

BEcauſe ſome will be offended at the Book, *and others at this* Bill *at the end of it, the Printer ſhall (having this ſpare leaf) tell them this Story. A Miniſter of the Church of* England, *an Ingenious and Conſiderable perſon, who lived lately in a Town of good note in the Country, was in the Company of ſome Gentlemen of that place who were Papiſts, and he Diſcourſing occaſionally about the* Non-Conformiſts, *they fell inveighing readily againſt them, as a Generation not to be ſuffered to live; and that they wondred that the Epiſcopal party did not uſe their Intereſt to root them out of the Kingdom. Theſe expreſſions ſeeming* bitter *to him, as well as* unuſual *(for the Papiſts ordinarily are more reſerved) he could not chooſe but reflect upon it, and thought in his mind immediately that it would be worth his inquiry to know what the ſame perſons did uſe to ſay to the* Fanaticks *of the* Churchmen, *that ſpake of the* Diſſenters *thus to* him, *and going therefore to ſome of the more eminent of the Town of that perſwaſion, he deſired them to tell him truly what ſuch Gentlemen (naming them by*

name

name) were wont to say of the Episcopal party *when they were in their Company. They told him they said ordinarily they were men of a Persecuting Spirit, that made not Conscience of their Religion, as the* Fanaticks *did, and consequently deserved to be looked on and dealt with accordingly, or words yet harsher to that effect. Upon this the Minister tells them what those persons said of the* Non-Conformists *party in such Company to himself the other day. The good men were astonished at it, in regard of their frequent conversation with them; and the result was, that both they and the Minister concluded streight of what a dangerous importance the Dissention of the Protestants is amongst us; That the Design and Strength of the Papists lyes there; And what need we have therefore to use all the means, and speed we can, to endeavour a composure and concord one with another.*